

ASSEMBLY, No. 3724

STATE OF NEW JERSEY

222nd LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2026 SESSION

Sponsored by:

Assemblywoman ALIXON COLLAZOS-GILL

District 27 (Essex and Passaic)

SYNOPSIS

Provides personal liability for owner, executive officer, or executive director of employer for failure to pay for workers' compensation coverage.

CURRENT VERSION OF TEXT

As reported by the Assembly Labor Committee with technical review.



1 AN ACT concerning the uninsured employer's fund for workers'
2 compensation coverage and amending P.L.1966, c.126.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 10 of P.L.1966, c.126 (C.34:15-120.1) is amended to
8 read as follows:

9 10. a. There is hereby created a fund which shall be known as
10 the "uninsured employer's fund" to provide for the payment of
11 awards against uninsured defaulting employers who fail to provide
12 compensation to employees or their beneficiaries in accordance
13 with the provisions of the workers' compensation law, R.S. 34:15-1
14 et seq.

15 The fund shall be administered, maintained, and disbursed by the
16 Commissioner of Labor as hereinafter provided.

17 b. (1) For the purpose of establishing and maintaining this
18 fund, the Commissioner of Labor shall impose on January 1, 1989
19 and on the first day of each year thereafter, except as provided
20 below, an annual surcharge upon each workers' compensation
21 policyholder and employer's liability insurance policyholder and
22 each self-insured employer insured pursuant to R.S. 34:15-77. Each
23 workers' compensation and employer's liability insurance
24 policyholder and self-insured employer shall be liable for payment
25 of the annual surcharge in accordance with the provisions of this
26 section and all regulations promulgated pursuant thereto. The
27 annual surcharge imposed under this section shall apply to all
28 workers' compensation and employer's liability insurance policies
29 written or renewed or, in the case of self-insured employers, to
30 coverage provided on or after January 1, 1989. However, the
31 surcharge shall not apply: to any reinsurance or retrocessional
32 transaction; to the State or any political subdivision thereof which
33 acts as a self-insured employer; or to any workers' compensation
34 endorsement required pursuant to section 1 of P.L. 1979, c. 380 (C.
35 17:36-5.29).

36 If the Commissioner of Labor determines, pursuant to paragraph
37 (2) of this subsection b., that the "uninsured employer's fund" will
38 have to its credit a sum in excess of \$500,000.00 at the end of any
39 calendar year, the annual surcharge shall be suspended for the next
40 following year and its collection not resumed until the calendar year
41 immediately following any calendar year in which the balance in
42 the fund is reduced below \$500,000.00.

43 (2) For the calendar year 1989, the total amount of the surcharge
44 levied by the commissioner shall be \$500,000.00. On September 1
45 of 1989 and of each year thereafter, the Commissioner of Labor

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 shall estimate the amount of benefits that have been paid and will
2 be paid from the "uninsured employer's fund" during that calendar
3 year, and shall calculate in consultation with the Commissioner of
4 Insurance, the total amount of the annual surcharge for the
5 "uninsured employer's fund" to be levied during the next following
6 calendar year upon all workers' compensation and employer's
7 liability insurance policyholders and self-insured employers
8 pursuant to paragraph (1) of this subsection b. The total amount of
9 the annual surcharge shall equal 150% of the moneys estimated by
10 the Commissioner of Labor to be payable from the "uninsured
11 employer's fund" during the calendar year preceding the year during
12 which the annual surcharge will be imposed.

13 (3) The total amount of the annual surcharge calculated pursuant
14 to paragraph (2) of this subsection b. shall be added to the aggregate
15 annual surcharge amount to be levied upon and apportioned among
16 all workers' compensation and employer's liability policyholders
17 and self-insured employers pursuant to R.S. 34:15-94, and be levied
18 and apportioned in the same manner as the annual surcharge for the
19 Second Injury Fund as provided in R.S. 34:15-94. The surcharge to
20 be collected from policyholders and self-insured employers
21 pursuant to this section shall, however, be stated separately on the
22 policy or billing statement and the amount of the surcharge as
23 applied pursuant to this section shall not be subject to reduction for
24 special adjustment and supplemental benefits paid or payable under
25 the workers' compensation law, R.S. 34:15-1 et seq.

26 (4) As used in this subsection, "policyholder" means a holder of
27 a workers' compensation and employer's liability insurance policy
28 issued by an insurer that is a domestic, foreign or alien mutual
29 association or stock company writing workers' compensation or
30 employer's liability insurance on risks located in this State and
31 subject to premium taxes pursuant to P.L. 1945, c. 132 (C. 54:18A-
32 1). "Self-insured employer" means an employer which self-insures
33 for workers' compensation or employer's liability insurance
34 pursuant to the provisions of R.S. 34:15-77.

35 (5) All moneys collected pursuant to this section shall be
36 deposited in the "uninsured employer's fund." Collection of the
37 annual surcharge shall be under the authority of the Commissioner
38 of Labor as defined in R.S. 34:15-94.

39 c. The Director of the Division of Workers' Compensation
40 upon rendering a decision with respect to any claim for
41 compensation under chapter 15 of Title 34 of the Revised Statutes
42 that the employer liable therefor has failed to secure the payment of
43 compensation with respect to a claim in accordance with R.S.
44 34:15-71 or R.S. 34:15-72, shall impose a penalty of \$1,000.00
45 against the employer and direct its payment into the "uninsured
46 employer's fund" in connection with each such claim. The director
47 shall also impose an additional assessment of 15% of the award or
48 awards made in each claim. This additional assessment shall not

1 exceed, however, the sum of \$5,000.00 on any one claim, and shall
2 be paid into the "uninsured employer's fund."

3 If the employer fails to pay these assessments into the fund
4 within 10 days after date of mailing of notice thereof to him, this
5 shall constitute a default in payment of compensation due pursuant
6 to the provisions of the workers' compensation law, R.S. 34:15-1 et
7 seq., and judgment therefor shall be entered in accordance
8 therewith.

9 All sums collected from an uninsured defaulting employer with
10 respect to any claim for compensation referred to in this section but
11 not payable from the fund, whether such collection is made prior or
12 subsequent to entry of judgment against the employer, shall be
13 deemed in payment of and applicable first in satisfaction of any
14 compensation and benefits due from the employer with respect to
15 the claim and security demand, if any, in connection therewith and
16 only when the obligations are satisfied in full shall the balance of
17 said sums collected, if any, be deemed payment in satisfaction of
18 and applicable to the assessments above prescribed in this section.

19 All sums recovered from uninsured defaulting employers on
20 judgments entered for failure to pay assessments as hereinafter
21 provided and for failure to pay compensation and benefits which
22 were paid from the "uninsured employer's fund," shall upon
23 recovery be paid into that fund.

24 d. An employer and a principal owner shall be subject to joint
25 and several liability under this section, such that any penalty
26 imposed under subsection c. of this section shall be collectible
27 against the employer and any principal owner of the employer. As
28 used in this section, "principal owner" means any person who,
29 directly or indirectly, holds a beneficial interest or ownership in an
30 employer or who has the ability to control an employer.

31 (cf: P.L.1988, c.25, s.1)

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33 2. Section 14 of P.L.1966, c.126 (C.34:15-120.5) is amended to
34 read as follows:

35 14. a. To the extent of the compensation and benefits paid or
36 payable to an employee or his dependents from the uninsured
37 employers' fund, the fund, by subrogation, shall be entitled to all the
38 rights, powers and benefits of the employee or his dependents
39 against the employer arising under the provisions of chapter 15 of
40 Title 34 of the Revised Statutes; and in any case or situation
41 contemplated by section 34:15-40 of the Revised Statutes, the fund,
42 shall have the same rights as the employer. An employer and a
43 principal owner shall be subject to joint and several liability under
44 this section.

45 b. As used in this section:

46 "Employer" includes the employer, and any principal owner of
47 the employer.

1 “Principal owner” means any person who, directly or indirectly,
2 holds a beneficial interest or ownership in an employer or who has
3 the ability to control an employer.

4 (cf: P.L.1966, c.126, s.14)

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6 3. This act shall take effect immediately.