

# RULE

## Department of Labor Office of Workers' Compensation Second Injury Board

Assessment and Timely Filing  
(LAC 40:III.107 and 301-307)



Under the authority of the Workers' Compensation Act, particularly R.S. 23:1021 et seq., R.S. 23:1376 and R.S. 23:1377, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Labor, Office of Workers' Compensation Administration, Second Injury Board ("the board") has amended Chapter 1, §107 and adopted new rules in Chapter 3 of Part III of LAC 40.

The changes to the rules are necessary to allow the board, under Acts 1995 Number 188, effective June 12, 1995, to administer the Second Injury Fund reimbursement program in a timely manner and in order to do so, the board must assess, notify entities, and collect such assessments before the 1996 calendar year. Without rules and regulations, the assessment cannot be timely made; therefore, time is of the essence to implement the rules for administration of the program under law. These rules are also necessary for compliance with Acts 1995 Number 245, effective June 14, 1995, to require presentation of claims to the board within one year after the first payment of either compensation or medical benefits.

These rules become effective January 20, 1996.

### **Title 40 LABOR AND EMPLOYMENT Part III. Workers' Compensation Second Injury Board**

#### **Chapter 1. General Provisions**

##### **§107. Presentation of Claim for Reimbursement from Second Injury Fund, Timely Filing Thereof**

Within one year after the first payment of either compensation or medical benefits, the employer or his insurer, whichever of them makes the payments or becomes liable therefor, shall notify the board in writing of such facts and furnish such other information as may be required for the board to determine if the employer or his insurer is entitled to reimbursement from the Workers' Compensation Second Injury Fund. No employer, insurer, servicing agent or self-insured association shall be reimbursed unless the board is notified within one year from the date of the first payment of either compensation or medical benefits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1376.

HISTORICAL NOTE: Promulgated by the Workmen's Compensation Second Injury Board, LR 1:146 (February 1975), amended LR 3:49 (January 1977), amended by the Department of Labor, Workmen's Compensation Second Injury Board, LR 3:49 (December 1977), amended and repromulgated by the Department of Employment and Training, Office of Workers' Compensation, Second Injury Board, LR 17:179 (February 1991), amended by the Department of Labor, Office of Workers' Compensation, Second Injury Board, LR 22:34 (January 1996).

#### **Chapter 3. Assessments**

##### **§301. Assessment; Calculation of Rate**

A. The board shall determine the amount of the total assessment to be collected which shall not exceed 125 percent of the disbursements made from the fund in the preceding fiscal year.

B. The assessment rate shall be calculated by dividing the total assessment by the total workers' compensation benefits as reported to the Office of Workers' Compensation on form LDOL-WC-1000.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1376 and R.S. 23:1377.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation, Second Injury Board, LR 22:35 (January 1996).

##### **§303. Assessment; Due Date; Notice**

A. Each reporting entity shall be assessed an amount determined by multiplying the assessment rate times the total reported workers' compensation benefits paid by that entity.

B. The board shall set the date that the assessment shall be due and shall provide notice to all entities assessed at least 30 days prior to such due date.

C. An assessment notice shall be prepared and mailed to each entity filing an annual report and for which an assessment is due. The notice shall be sent certified mail, return receipt requested.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1376 and R.S. 23:1377.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation, Second Injury Board, LR 22:35 (January 1996).

##### **§305. Assessments - Failure to Pay; Penalties; Collection**

A. Any entity assessed, shall remit the amount of the assessment within 30 days of the date of notice or by the due date set forth in the notice if greater than 30 days. The official United States Postal Department postmark shall be the basis for determining compliance with this requirement.

B. Any entity failing to pay by the due date may be assessed a penalty of 20 percent of the unpaid assessment for each 30 days, or portion thereof, that the assessment remains unpaid.

C. Payments received by the office shall be applied first to penalties assessed and then to the outstanding second injury fund assessment.

D. The assessment and/or penalties imposed pursuant to this section shall be pursued for collection by the procedures used for collection of an open account.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1376 and R.S. 23:1377.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation, Second Injury Board, LR 22: 35 (January 1996).

**§307. Ineligibility for Reimbursement**

A. Any entity required by law to make an annual payment or payments into the fund, but which has not made such annual payment or payments, shall be ineligible for reimbursement from the fund for injuries occurring during such period of non-payment of assessment.

B. Except as provided in R.S. 23:1378(A)(7), any entity that is not required by law to make an annual payment or payments into the fund shall be ineligible for reimbursement from the fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1376 and R.S. 23:1377.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation, Second Injury Board, LR 22:35 (January 1996).

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