

**Fifty-ninth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 4, 2005**

HOUSE BILL NO. 1123
(Representatives Bernstein, Wald, Kasper)
(At the request of Workforce Safety and Insurance)

AN ACT to amend and reenact sections 65-04-20 and 65-04-22, subsection 3 of section 65-04-33, subsection 4 of section 65-08-01, and subsection 2 of section 65-09-01 of the North Dakota Century Code, relating to premium installment payments, authority to decline coverage and negotiate penalties, extraterritorial coverage, and certification by contractor of independent contractor status.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 65-04-20 of the North Dakota Century Code is amended and reenacted as follows:

65-04-20. Installment payment of premiums - Interest required. ~~If the amount of premium billed to an An employer on a premium billing statement is greater than the minimum premium, the employer may pay the excess of the minimum annual premium in installments.~~

Interest must be charged at the prevailing base rate posted by the Bank of North Dakota plus two and one-half percent. The interest charged must be at least six percent per annum. Interest must be charged on all premiums deferred under this section. Upon default in payment of any installment, the penalties apply which are provided in this chapter apply ~~sections 65-04-22 and 65-04-33.~~

SECTION 2. AMENDMENT. Section 65-04-22 of the North Dakota Century Code is amended and reenacted as follows:

65-04-22. Organization may make premium due immediately - When premium is in default. The organization, by its proper order, and ~~by an endorsement and notification to that effect~~ upon the premium billing statement sent to an employer, may require payment of a premium within any time less than one month which, in the judgment of the organization, is reasonable and necessary to secure the payment of the premium by any employer whose employment within this state is likely to continue for less than one month, and in such case, default shall begin at the end of the time allowed by the organization for the payment of the premium. In the absence of ~~such an order, endorsement,~~ and notification, the premium, whether the same is to be paid in full or in installments, shall be in default one month from the payment due date specified in the premium billing statement.

Default of any installment payment will, at the option of the organization, make the entire remaining balance of the premium due and payable. The organization may declare an employer to be uninsured at any time after forty-five days have passed from the due date specified in the premium billing statement and the employer has failed to make a payment to the organization. The organization may decline coverage to any employer that has been determined to be uninsured under this section and the premium delinquency remains unresolved.

SECTION 3. AMENDMENT. Subsection 3 of section 65-04-33 of the North Dakota Century Code is amended and reenacted as follows:

3. An employer who is uninsured is liable for any premiums plus penalties and interest due on those premiums, plus a penalty of twenty-five percent of all premiums due during the most recent year of noncompliance. An additional five percent penalty is due for each year of noncompliance before the most recent year beginning on the date the organization became aware of the employer's uninsured status, resulting in the penalty for the second most recent year being thirty percent, for the third most recent year being thirty-five

percent, for the fourth most recent year being forty percent, for the fifth most recent year being forty-five percent, and for the sixth most recent year being fifty percent. The organization may not assess a penalty for more than six years of past noncompliance. The organization may assess additional penalties, from the date the organization became aware of the employer's uninsured status continuing until the effective date of coverage, equal to twenty-five percent of the premium due for that period. The penalties for employers are in addition to any other penalties provided by law. The organization may reduce these penalties. However, the amount due from an employer may not be less than the actual cost and reserves of any claim attributable to the employer during the time the employer was uninsured, unless authorized by the director. An employer may not appeal an organization decision not to reduce a penalty under this subsection.

SECTION 4. AMENDMENT. Subsection 4 of section 65-08-01 of the North Dakota Century Code is amended and reenacted as follows:

4. An employer whose employment results in significant contacts with this state shall acquire workforce safety and insurance coverage in this state unless a reciprocal agreement between the states is entered which provides that the other state will likewise recognize that an employment relationship entered into in this state is exempted from the application of the ~~workforce safety and workers' compensation~~ insurance law of the other state. An employment has significant contacts with this state when:
 - a. ~~The~~ Any employee earns or would have been expected to earn twenty-five percent or more of the employee's gross annual wage or income from that employer from services rendered in this state; or
 - b. ~~If no employee earns twenty five percent of the employee's gross annual income from that employment within this state, Twenty-five percent of the employer's gross annual payroll in a calendar year in this state is at least one hundred thousand dollars is~~ payable to employees for services rendered in this state.

Under this subsection, an employee injured in this state may elect to file a claim in this state notwithstanding that the employee had another remedy in the state in which the employment was principally localized. A claim filed under this subsection is subject to section 65-05-05. The time limits within which the organization shall issue a decision on a claim, as specified in sections 65-01-16 and 65-02-08, do not begin to run for claims filed under this section until the first date the organization may begin to process the claim as set forth in section 65-05-05.

SECTION 5. AMENDMENT. Subsection 2 of section 65-09-01 of the North Dakota Century Code is amended and reenacted as follows:

2. The organization ~~shall~~ may establish a procedure ~~by which a person may apply to the organization for a determination of~~ determine whether ~~that a~~ a person is an employer required to obtain ~~workforce safety and insurance~~ workers' compensation coverage under this title and to require a person asserting independent contractor status to file a statement annually with the organization certifying that status. A determination under this section that a person is not required to be insured is effective for no more than one year from the date the person is notified of the determination. The organization retains continuing jurisdiction over determinations made under this section and may reconsider or revoke its decision at any time.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Fifty-ninth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1123.

House Vote: Yeas 76 Nays 12 Absent 6

Senate Vote: Yeas 44 Nays 0 Absent 3

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2005.

Approved at _____ M. on _____, 2005.

Governor

Filed in this office this _____ day of _____, 2005,

at _____ o'clock _____ M.

Secretary of State