

SECOND REGULAR SESSION

SENATE BILL NO. 1016

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR MAYER.

Read 1st time January 24, 2008, and ordered printed.

TERRY L. SPIELER, Secretary.

4388S.011

AN ACT

To repeal section 537.675, RSMo, and to enact in lieu thereof one new section relating to distribution of a portion of the tort victims' compensation fund.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 537.675, RSMo, is repealed and one new section
2 enacted in lieu thereof, to be known as section 537.675, to read as follows:

537.675. 1. As used in sections 537.675 through 537.693, the following
2 terms mean:

3 (1) "Annual claims", that period of time commencing on the first day of
4 January of every year after December 31, 2002, and ending on the last day of that
5 calendar year;

6 (2) "Commission", the labor and industrial relations commission;

7 (3) "Division", the division of workers' compensation;

8 (4) "Initial claims period", that period commencing on August 28, 2001,
9 and ending on December 31, 2002;

10 (5) "Punitive damage final judgment", an award for punitive damages
11 excluding interest that is no longer subject to review by courts of this state or of
12 the United States;

13 (6) "Uncompensated tort victim", a person who:

14 (a) Is a party in a personal injury or wrongful death lawsuit; or is a tort
15 victim whose claim against the tort-feasor has been settled for the policy limits
16 of insurance covering the liability of such tort-feasor and such policy limits are
17 inadequate in light of the nature and extent of damages due to the personal
18 injury or wrongful death;

19 (b) Unless described in paragraph (a) of this subdivision:

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

20 a. Has obtained a final monetary judgment in that lawsuit described in
21 paragraph (a) of this subdivision against a tort-feasor for personal injuries, or
22 wrongful death in a case in which all appeals are final;

23 b. Has exercised due diligence in enforcing the judgment; and

24 c. Has not collected the full amount of the judgment;

25 (c) Is not a corporation, company, partnership or other incorporated or
26 unincorporated commercial entity;

27 (d) Is not any entity claiming a right of subrogation;

28 (e) Was not on house arrest and was not confined in any federal, state,
29 regional, county or municipal jail, prison or other correctional facility at the time
30 he or she sustained injury from the tort-feasor;

31 (f) Has not pleaded guilty to or been found guilty of two or more felonies,
32 where such two or more felonies occurred within ten years of the occurrence of the
33 tort in question, and where either of such felonies involved a controlled substance
34 or an act of violence; and

35 (g) Is a resident of the state of Missouri or sustained personal injury or
36 death by a tort which occurred in the state of Missouri.

37 2. There is created the "Tort Victims' Compensation Fund". Unexpended
38 moneys in the fund shall not lapse at the end of the biennium as provided in
39 section 33.080, RSMo.

40 3. Any party receiving a judgment final for purposes of appeal for punitive
41 damages in any case filed in any division of any circuit court of the state of
42 Missouri shall notify the attorney general of the state of Missouri of such award,
43 except for actions claiming improper health care pursuant to chapter 538,
44 RSMo. The state of Missouri shall have a lien for deposit into the tort victims'
45 compensation fund to the extent of fifty percent of the punitive damage final
46 judgment which shall attach in any such case after deducting attorney's fees and
47 expenses. In each case, the attorney general shall serve a lien notice by certified
48 mail or registered mail upon the party or parties against whom the state has a
49 claim for collection of its share of a punitive damage final judgment. On a
50 petition filed by the state, the court, on written notice to all interested parties,
51 shall adjudicate the rights of the parties and enforce the lien. The lien shall not
52 be satisfied out of any recovery until the attorney's claim for fees and expenses
53 is paid. The state can file its lien in all cases where punitive damages are
54 awarded upon the entry of the judgment final for purposes of appeal. The state
55 cannot enforce its lien until there is a punitive damage final judgment. Cases

56 resolved by arbitration, mediation or compromise settlement prior to a punitive
57 damage final judgment are exempt from the provisions of this section. Nothing
58 in this section shall hinder or in any way affect the right or ability of the parties
59 to any claim or lawsuit to compromise or settle such claim or litigation on any
60 terms and at any time the parties desire.

61 4. The state of Missouri shall have no interest in or right to intervene at
62 any stage of any judicial proceeding pursuant to this section, except to enforce its
63 lien rights as provided in subsection 3 of this section.

64 5. [There is hereby established in the state treasury the "Legal Services
65 for Low-Income People Fund", which shall consist of twenty-six percent of all
66 payments received into the tort victims' compensation fund and all interest
67 accruing on the principal, regardless of source or designation including twenty-six
68 percent of the money that upon August 28, 2001, is in the tort victims'
69 compensation fund. Moneys, funds or payments paid to the credit of the legal
70 services for low-income people fund shall, at least as often as annually, upon
71 appropriation, be distributed to the legal services organizations in Missouri which
72 are recipients of federal Legal Services Corporation funding and shall be used for
73 no other purpose than as authorized pursuant to sections 537.675 to
74 537.693. The funds so distributed shall be used by legal services organizations
75 in Missouri solely to provide legal services to its low-income population. Funds
76 shall be allocated according to the most recent official census data from the
77 Bureau of Census, United States Department of Commerce for people in poverty
78 residing in Missouri. Notwithstanding the provisions of section 33.080, RSMo,
79 any balance remaining in the legal services for low-income people fund at the end
80 of any biennium shall not be transferred to general revenue, but shall remain in
81 the fund and be distributed in accordance with the provisions of this section.]
82 **Twenty-six percent of all payments deposited into the tort victims'**
83 **compensation fund, all interest accruing on the principal regardless of**
84 **source or designation, and any moneys remaining in the legal services**
85 **for low-income people fund as of August 28, 2008, shall be transferred**
86 **to the basic civil legal services fund established in section 477.650,**
87 **RSMo.** Moneys in the tort victims' compensation fund shall not be used to pay
88 any portion of a refund mandated by article X, section 18 of the constitution.