

2010 -- S 2162

LC00873

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2010

A N A C T

RELATING TO LABOR AND LABOR RELATIONS -- WORKERS' COMPENSATION --  
PROCEDURE

Introduced By: Senator Roger Picard

Date Introduced: February 04, 2010

Referred To: Senate Labor

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 28-35-12 of the General Laws in Chapter 28-35 entitled "Workers'  
2 Compensation - Procedure" is hereby amended to read as follows:  
3 **28-35-12. Petition for determination of controversy -- Contents and filing.** -- (a) In all  
4 disputes between an employer and employee in regard to compensation or any other obligation  
5 established under chapters 29 -- 38 of this title, and when death has resulted from the injury and  
6 the dependents of the deceased employee entitled to compensation are, or the apportionment of  
7 compensation among them is in dispute, any person in interest or his or her authorized  
8 representative may file with the administrator of the workers' compensation court a petition and  
9 as many copies of the petition as there are respondent parties to it upon forms prescribed and  
10 furnished by the court, setting forth the names and residences of the parties, the facts relating to  
11 employment at the time of injury, the cause, extent, and character of the injury, the amount of  
12 wages, earnings, or salary received at the time of the injury, and the knowledge of the employer  
13 of notice of the occurrence of the injury, and any other facts that may be necessary and proper for  
14 the information of the court, and shall state the matter in dispute and the claims of the petitioner  
15 with reference to the compensation; provided, that no petition shall be filed within twenty-one  
16 (21) days of the date of the injury and until the employer or insurer has first been provided with  
17 the necessary documentation, medical or otherwise, in support of the claim and then a reasonable  
18 opportunity to voluntarily accept the claim, and no petition regarding any other obligation

1 established under chapters 29 -- 38 of this title shall be filed until twenty-one (21) days after  
2 written demand for payment upon the employer or insurer or written notice to the employer or  
3 insurer of failure to fulfill the obligation, except that any petition alleging the non-payment or late  
4 payment of weekly compensation benefits, attorneys' fees, and costs, may be filed after fourteen  
5 (14) days from the date the payment is due as set forth in sections 28-35-42, 28-35-43, and 28-35-  
6 20(c). Medical bills for services ordered paid by decree or pretrial order shall be paid within  
7 fourteen (14) days of the entry of the decree or order. In the event that the bills are not paid within  
8 the fourteen (14) day period, a petition may be filed to enforce the order or decree without any  
9 additional written notice to the employer or insurer.

10 (b) (1) If one or more claims are filed for an injury and there are two (2) or more  
11 insurers, any one of which may be held to be liable to pay compensation, and the judge  
12 determines that the injured employee would be entitled to receive compensation but for the  
13 existence of a controversy as to which one of the insurers is liable to pay compensation, one of  
14 the insurers shall be selected by a judge of the workers' compensation court to pay to the injured  
15 employee the compensation, pending a final decision of the workers' compensation court as to the  
16 matter in controversy, and that decision shall require that the amount of compensation paid is  
17 deducted from the award if made against another insurer and is paid by that other insurer to the  
18 insurer agreed upon or selected by the judge. If the insurers cannot agree that the employee would  
19 be entitled to compensation irrespective of the existence of that controversy, a hearing to  
20 determine the question of liability and the payment of compensation shall be held immediately by  
21 the workers' compensation court, that hearing to take precedence over other pending matters.

22 (2) The workers' compensation court shall award compensation, costs, and attorneys'  
23 fees in its discretion if one of the insurers is held to be liable following the hearing.

24 (c) If any determination of the workers' compensation court entitles an employee to  
25 retroactive payment of weekly benefits, the court shall award to the employee interest at the rate  
26 per annum provided in section 9-21-10 on that retroactive weekly payment from six (6) months  
27 subsequent to the date that the employee first filed a petition for benefits to the time when that  
28 retroactive payment is actually made; provided, that if the proceedings are unduly delayed by or  
29 at the request of the employee or his or her attorney, the judge may reduce or eliminate interest on  
30 retroactive payment; and provided, further, that the provisions of this section as they relate to  
31 interest apply only to petitions filed on or after July 1, 1984.

32 (d) Any fine, penalty, or interest expense incurred by an insurer under this section may  
33 not be used as an expense for the purpose of seeking a rate increase before the department of  
34 business regulation.

1 SECTION 2. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

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- 1           This act would provide an employer or insurer with notice and opportunity to accept a
- 2 workers' compensation claim.
- 3           This act would take effect upon passage.

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