

**Sixty-first Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 6, 2009**

HOUSE BILL NO. 1063
(Legislative Council)
(Workers' Compensation Review Committee)

AN ACT to amend and reenact section 65-05-29 of the North Dakota Century Code, relating to workers' compensation coverage for preexisting conditions; and to provide for application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 65-05-29 of the North Dakota Century Code is amended and reenacted as follows:

65-05-29. Assignment of claims void - Claims exempt.

1. Any assignment of a claim for compensation under this title is void. All compensation and claims therefor are exempt from claims of creditors except any of the following:
 1. a. A child support obligation ordered by a court of competent jurisdiction.
 2. b. A claim by job service North Dakota for reimbursement of unemployment benefits, for the amount that was paid by job service North Dakota during the period for which the claimant is found eligible for temporary total or permanent total disability benefits, not to exceed the disability award actually made by the organization.
 3. c. A claim by the organization for any payments made due to:
 - a. (1) Clerical error, mistake of identity, innocent misrepresentation by or on behalf of the recipient, or any other circumstance of a similar nature, all not induced by fraud, in which cases the recipient shall repay it or recoupment of any unpaid amount may be made from any future payments due to the recipient on any claim with the organization;
 - b. (2) An adjudication by the organization or by order of the board or any court, if the final decision is that the payment was made under an erroneous adjudication, in which cases the recipient shall repay it or recoupment of any unpaid amount may be made from any future payments due to the recipient on any claim with the organization;
 - c. (3) Fraud, in which case the recipient shall repay the payment or the unpaid amount of the sum may be recouped from any future payments due to the recipient on any claim with the organization; or
 - d. (4) Overpayment due to application of section 65-05-09.1.
2. a. Notwithstanding paragraph 2 of subdivision c of subsection 1, during the sixty days immediately following the date of injury, if the organization accrues a medical expense or makes a payment for a medical expense and the organization later determines the medical expense is for the care and treatment of a noncompensable injury, disease, or other condition, the injured employee is not liable for the medical expense accrued or paid by the organization before the earlier of:
 - (1) The third day following the date the organization makes a determination the medical expense is for a noncompensable injury, disease, or condition; or

- (2) The third day following the date the injured employee or medical provider reasonably should have known the medical expense is for a noncompensable injury, disease, or condition.
- b. Medical expenses incurred under this subsection may not be charged against an employer's account for purposes of experience rating.

SECTION 2. APPLICATION. This Act applies to medical expenses incurred on or after the effective date of this Act.

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 Sixty-first Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1063.

House Vote: Yeas 89 Nays 0 Absent 5

Senate Vote: Yeas 45 Nays 1 Absent 1

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2009.

Approved at _____ M. on _____, 2009.

Governor

Filed in this office this _____ day of _____, 2009,

at _____ o'clock _____ M.

Secretary of State