



SB 847 (Reyes): Uninsured Employers' Benefits Trust Fund

SUMMARY

SB 847 aims to prevent uninsured employers from evading their responsibility to reimburse the Uninsured Employers Benefits Trust Fund (UEBTF) by authorizing the Director of Industrial Relations (DIR) to make a *prima facie* determination in relation to UEBTF cases.

BACKGROUND

The UEBTF is a California trust fund administered by the Director of the Department of Industrial Relations (DIR), which provides workers' compensation benefits to injured workers when employers fail to obtain insurance and do not pay benefits.

A worker who is injured while employed by an illegally uninsured employer may file an application for workers' compensation. If an award is made to the employee and the employer fails to pay the compensation as awarded, the UEBTF pays the award including both medical treatment and disability payments.

The most effective method of collection employed by the Director of DIR against uninsured employers is through recording a certificate of lien. Once the lien has been attached to the real property located in the county where the certificate was recorded, the lien has the same effect as a judgment lien. Typically, the Director collects the

amounts the UEBTF has expended when the employer closes a sale or refinance escrow.

While the UEBTF usually recoups its expenses through recording statutory liens, in recent years DIR has noticed an increase in the transfer of real properties after a worker is injured and a workers' compensation case is filed. These transfers often reflect an intent by the illegally uninsured employer to avoid a certificate of lien's attachment to their real property, and a corresponding intent to evade the UEBTF's lawful demands and efforts to collect reimbursement for funds paid out to the injured worker.

These types of real property transfers threaten to impact the ability of the Director to secure reimbursement of funds paid out by UEBTF, which would cause continuing and greater harm to the UEBTF, and consequently to law abiding employers who obtain insurance and California taxpayers who also absorb these costs.

THIS BILL

This bill authorizes the Director to make a *prima facie* determination that the real property is held in a "resulting trust" in favor of the illegally uninsured employer or substantial shareholder, such that the Director's certificate lien would continue to attach to the property. The determination would occur when an illegally uninsured employer has transferred a real property to an

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insider without consideration after a worker injury. This would allow DIR to obtain reimbursement from the employer for all sums paid by UEBTF on the injured worker's claim.

SUPPORT

California Applicants' Attorney Association
(sponsor)
California Chamber of Commerce

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