

which is a nonprofit corporation acting for the benefit of any entity described in this subsection .

(5) "Project" means a specific health care facility or any combination of health care facilities, constructed, purchased, acquired, leased, used, owned or operated by a participant, and alterations, additions to, renovations, enlargements, betterments and reconstructions thereof.

NEW SECTION. Sec. 4. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate April 22, 1983.

Passed the House April 12, 1983.

Approved by the Governor May 16, 1983.

Filed in Office of Secretary of State May 16, 1983.

## CHAPTER 211

[Substitute Senate Bill No. 3127]

### INDUSTRIAL INSURANCE—DISTRIBUTION OF AWARD OR SETTLEMENT RECOVERED BY SELF-INSURER OR DEPARTMENT OF LABOR AND INDUSTRIES

AN ACT Relating to industrial insurance; amending section 3, chapter 85, Laws of 1977 ex. sess. and RCW 51.24.050; amending section 4, chapter 85, Laws of 1977 ex. sess. and RCW 51.24.060; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 3, chapter 85, Laws of 1977 ex. sess. and RCW 51.24.050 are each amended to read as follows:

(1) An election not to proceed against the third person operates as an assignment of the cause of action to the department or self-insurer, which may prosecute or compromise the action in its discretion in the name of the injured worker, beneficiary or legal representative.

(2) ~~((The injured worker or beneficiary shall be entitled to the remaining balance of))~~ Any award or settlement recovered by the department or self-insurer ((after deduction of the following amounts)) shall be distributed as follows:

(a) The department or self-insurer shall be paid the expenses incurred in making the recovery including reasonable costs of legal services; ((and))

(b) The injured worker or beneficiary shall be paid twenty-five percent of the balance of the award or settlement, which shall not be subject to subsection (3) of this section: PROVIDED, That in the event of a compromise and settlement by the parties, the injured worker or beneficiary may agree to a sum less than twenty-five percent;

(c) The department or self-insurer shall be paid the compensation and benefits paid to or on behalf of the injured worker or beneficiary by the department or self-insurer; and

(d) The injured worker or beneficiary shall be paid any remaining balance.

(3) Thereafter no payment shall be made to or on behalf of a worker or beneficiary by the department or self-insurer for such injury until the amount of any further compensation or benefits shall equal any such remaining balance. Thereafter, such benefits shall be paid by the department or self-insurer to or on behalf of the worker or beneficiary as though no third party person claim had been made.

(4) In the case of an employer not qualifying as a self-insurer, the department shall make a retroactive adjustment to such employer's experience rating in which the third party claim has been included to reflect that portion of the award or settlement which is reimbursed for compensation and benefits paid and, if the claim is open at the time of recovery, applied against further compensation or benefits to which the injured worker or beneficiary may be entitled.

Sec. 2. Section 4, chapter 85, Laws of 1977 ex. sess. and RCW 51.24-.060 are each amended to read as follows:

(1) In an action by the injured worker or beneficiary against the third person, any award or settlement shall be distributed as follows:

(a) The costs and reasonable attorneys' fees shall be paid proportionately by the worker or beneficiary and the department or self-insurer;

(b) The injured worker or beneficiary shall be paid twenty-five percent of the balance of the award: PROVIDED, That in the event of a compromise and settlement by the parties, the injured worker or beneficiary may agree to a sum less than twenty-five percent;

(c) The department or self-insurer shall be paid the balance of the award, but only to the extent necessary to reimburse the department or self-insurer for compensation or benefits paid;

(i) The department and/or self-insurer shall bear its proportionate share of the costs and reasonable attorneys' fees incurred by the claimant to the extent of the benefits paid or payable under this title.

(ii) The sum representing the department's and/or self-insurer's proportionate share shall not be subject to subsection (1) (d) and (e) of this section.

(d) Any remaining balance shall be paid to the injured worker or beneficiary;

(e) Thereafter no payment shall be made to or on behalf of a worker or beneficiary by the department or self-insurer for such injury until the amount of any further compensation or benefits shall equal any such remaining balance. Thereafter, such benefits shall be paid by the department;

or self-insurer to or on behalf of the worker or beneficiary as though no third party person claim had been made.

(2) The award or settlement shall be subject to a lien by the department or self-insurer for its share under this section.

(3) The department or self-insurer has sole discretion to compromise the amount of its lien.

(4) In the case of an employer not qualifying as a self-insurer, the department shall make a retroactive adjustment to such employer's experience rating in which the third party claim has been included to reflect that portion of the award or settlement which is reimbursed for compensation and benefits paid and, if the claim is open at the time of recovery, applied against further compensation or benefits to which the injured worker or beneficiary may be entitled.

NEW SECTION. Sec. 3. Sections 1 and 2 of this act apply to all actions against third persons in which judgment or settlement of the underlying action has not taken place prior to the effective date of this act.

NEW SECTION. Sec. 4. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the Senate April 22, 1983.

Passed the House April 18, 1983.

Approved by the Governor May 16, 1983.

Filed in Office of Secretary of State May 16, 1983.

## CHAPTER 212

[Engrossed Senate Bill No. 3134]

### SPECIAL FUELS ANNUAL LICENSE FEE—FORMULA MODIFICATION

AN ACT Relating to special fuels; amending section 1, chapter 335, Laws of 1977 ex. sess. as last amended by section 1, chapter 129, Laws of 1981 and RCW 82.38.075; adding a new section to chapter 44.40 RCW; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 1, chapter 335, Laws of 1977 ex. sess. as last amended by section 1, chapter 129, Laws of 1981 and RCW 82.38.075 are each amended to read as follows:

In order to encourage the use of nonpolluting fuels(~~(, until July 1, 1983)~~), an annual license fee in lieu of the tax imposed by RCW 82.38.030 shall be imposed upon the use of natural gas as defined in this chapter or on liquified petroleum gas, commonly called propane, which is used in any motor vehicle, as defined in RCW 46.04.320, (~~(in accordance with)~~) which shall be based upon the following schedule as adjusted by the formula set out below: