

# **WEST VIRGINIA LEGISLATURE**

## **2025 REGULAR SESSION**

**Introduced**

### **Senate Bill 16**

**FISCAL  
NOTE**

By Senator Smith (Mr. President)

[Introduced February 12, 2025; referred  
to Committee on Banking and Insurance; and then to  
the Committee on Finance]

A BILL to amend and reenact §23-4-15 of the Code of West Virginia, 1931, as amended, relating to clarifying that the time limitations provided for filing occupational pneumoconiosis claims do not apply or otherwise limit the ability of a claimant to obtain an evaluation from the Occupational Pneumoconiosis Board.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE            4.            DISABILITY            AND            DEATH            BENEFITS.**

**§23-4-15.                            Application                            for                            benefits.**

(a) To entitle any employee or dependent of a deceased employee to compensation under this chapter, other than for occupational pneumoconiosis or other occupational disease, the application for compensation shall be made on the form or forms prescribed by the Insurance Commissioner, and filed with the Insurance Commissioner, private carrier or self-insured employer, whichever is applicable, within six months from and after the injury or death, as the case may be, and unless filed within the six months period, the right to compensation under this chapter is forever barred, ~~such~~ the time limitation being hereby declared to be a condition of the right and hence jurisdictional, and all proofs of dependency in fatal cases ~~must~~ shall also be filed with the commission within six months from and after the death. In case the employee is mentally or physically incapable of filing the application, it may be filed by his or her attorney or by a member of his or her family.

(b) To entitle any employee to compensation for occupational pneumoconiosis under the provisions of this subsection, the application for compensation shall be made on the form or forms prescribed by the Insurance Commissioner, and filed with the Insurance Commissioner, private carrier or self-insured employer, whichever is applicable, within three years from and after the last day of the last continuous period of 60 days or more during which the employee was exposed to the hazards of occupational pneumoconiosis or within three years from and after a diagnosed impairment due to occupational pneumoconiosis was made known to the employee by a physician and unless filed within the three-year period, the right to compensation under this chapter is

forever barred, ~~such~~ the time limitation being hereby declared to be a condition of the right and hence jurisdictional, or, in the case of death, the application shall be filed by the dependent of the employee within two years from and after the employee's death, and ~~such~~ the time limitation is a condition of the right and hence jurisdictional: Provided, That nothing in this section may limit the time within which a claimant may obtain an evaluation from the Occupational Pneumoconiosis Board nor limit the applicability of §23-4-8c.

(c) To entitle any employee to compensation for occupational disease other than occupational pneumoconiosis under the provisions of this section, the application for compensation shall be made on the form or forms prescribed by the Insurance Commissioner, and filed with the Insurance Commissioner, private carrier or self-insured employer, whichever is applicable, within three years from and after the day on which the employee was last exposed to the particular occupational hazard involved or within three years from and after the employee's occupational disease was made known to him or her by a physician or which he or she should reasonably have known, whichever last occurs, and unless filed within the three-year period, the right to compensation under this chapter shall be forever barred, ~~such~~ the time limitation being hereby declared to be a condition of the right and therefore jurisdictional, or, in case of death, the application shall be filed as aforesaid by the dependent of the employee within one year from and after the employee's death, and ~~such~~ the time limitation is a condition of the right and hence jurisdictional.

NOTE: The purpose of this bill is to clarify that the time limitations provided for filing occupational pneumoconiosis claims in this section does not apply to or otherwise limit the ability of a claimant to obtain an evaluation from the Occupational Pneumoconiosis Board.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.