

The Labor and Employment Article Review Committee notes, for consideration by the General Assembly, that former Art. 101, § 39 did not provide a time limit for submitting a claim due to a death from ionizing radiation. The General Assembly may wish to clarify the time limit for submitting a claim due to death from ionizing radiation.

Defined terms: "Accidental injury" § 9-101

"Commission" § 9-101 "Covered employee" § 9-101

9-711. SAME — DISABLEMENT OR DEATH FROM OCCUPATIONAL DISEASE.

(A) FILING CLAIM.

IF A COVERED EMPLOYEE SUFFERS A DISABLEMENT OR DEATH AS A RESULT OF AN OCCUPATIONAL DISEASE, THE COVERED EMPLOYEE OR THE DEPENDENTS OF THE COVERED EMPLOYEE SHALL FILE A CLAIM WITH THE COMMISSION WITHIN 2 YEARS, OR IN THE CASE OF PULMONARY DUST DISEASE WITHIN 3 YEARS, AFTER THE DATE:

(1) OF DISABLEMENT OR DEATH; OR

(2) WHEN THE COVERED EMPLOYEE OR THE DEPENDENTS OF THE COVERED EMPLOYEE FIRST HAD ACTUAL KNOWLEDGE THAT THE DISABLEMENT WAS CAUSED BY THE EMPLOYMENT.

(B) FAILURE TO FILE CLAIM.

UNLESS WAIVED UNDER SUBSECTION (C) OF THIS SECTION, FAILURE TO FILE A CLAIM IN ACCORDANCE WITH SUBSECTION (A) OF THIS SECTION BARS A CLAIM UNDER THIS TITLE.

(C) WAIVER.

THE DEFENSE OF FAILURE TO FILE A CLAIM IN ACCORDANCE WITH SUBSECTION (A) OF THIS SECTION IS WAIVED IF THE EMPLOYER OR ITS INSURER:

(1) FAILS TO RAISE THE DEFENSE OF THE FAILURE TO FILE THE CLAIM AT A HEARING ON THE CLAIM BEFORE THE COMMISSION MAKES ANY AWARD OR DECISION;

(2) PAYS COMPENSATION FOR THE DISABILITY OR DEATH RESULTING FROM THE OCCUPATIONAL DISEASE; OR

(3) BY ITS AFFIRMATIVE CONDUCT LEADS THE COVERED EMPLOYEE OR OTHER CLAIMANT TO REASONABLY BELIEVE THAT THE REQUIREMENT OF FILING A CLAIM HAS BEEN WAIVED.

REVISOR'S NOTE: This section is new language derived without substantive change from the second sentence and, as it related to claim applications, the third sentence of former Art. 101, § 26(a)(4).