

A RESOLUTION

**Proposed
Resolution
20-422**

**See Emergency
D.C. Act 20-177
20 DCStat 2432**

**Workers'
Compensation
Statute of
Limitations
Congressional
Review
Emergency
Declaration
Resolution of
2013**

To declare the existence of an emergency, due to Congressional review, with respect to the need to amend the District of Columbia Workers' Compensation Act of 1979 to match federal statute of limitations for private-sector employees who are injured at work.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Workers’ Compensation Statute of Limitations Congressional Review Emergency Declaration Resolution of 2013”.

Sec. 2. (a) Previously, under District law, a private-sector employee who was injured on the job had only 6 months to file a lawsuit against the party responsible for the employee’s injury. After 6 months, the injured worker’s rights to recover damages were automatically assigned to the employee’s employer and its insurance company.

(b) A 6-month time limit to file a lawsuit is often too short for District residents who are injured on the job to investigate cases and respond to significant life issues following their at-work accidents. Moreover, the injured worker’s employer and the employer’s insurance company may not take action or have the interests of the injured worker in mind when doing so.

(c) If an individual were injured in a District location other than a workplace, the individual would have 3 years to file a lawsuit against the party responsible for the injury, as the standard 3-year statute of limitations for negligence would apply.

(d) The District’s private-sector workers’ compensation statute, which was enacted in 1979, was modeled on the federal Longshore and Harbor Workers’ Compensation Act (“LHWCA”).

(e) In 1984, Congress changed the corresponding section of the LHWCA. Under federal law, if an injured employee does not file a lawsuit within 6 months, the employee’s rights to do so are still automatically assigned to the employee’s employer and its insurance company; however, if the employer and its insurance company do not take action within 90 days, the right to sue automatically reverts back to the injured employee.

(f) Although the District’s private-sector workers’ compensation statute was modeled on the LHWCA, the District statute was not amended to reflect the 1984 amendment to the LHWCA until recently. Because of this, District residents who were injured on the job previously had only 6 months to file a lawsuit, while residents who are injured outside of the workplace have 3 years to commence legal action.

(g) As a result of this inequity, the Council recently enacted emergency legislation that amended the District’s private-sector workers compensation statute to match the federal law on which it was based. With this change, if an injured employee does not file a lawsuit against the party responsible for the employee’s injury within 6 months, the right to sue still automatically

transfers to the employee's employer and its insurance company; however, as under federal law, if the employer and its insurance company do not take action within 90 days, the right to sue will revert back to the injured employee, and the District's standard 3-year statute of limitations will apply.

(h) In addition to matching federal law, the emergency legislation made the District's statute of limitations for injured workers similar to laws in neighboring jurisdictions. In Maryland, the statute of limitations for injured workers to file suit is 3 years. In Virginia, the statute of limitations is 2 years.

(i) The emergency legislation, which was enacted on June 18, 2013, expires on September 25, 2013, and the accompanying temporary legislation will not take effect until November 1, 2013. Consequently, this Congressional review emergency is needed to prevent a gap in the legal authority.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Workers' Compensation Statute of Limitations Congressional Review Emergency Amendment Act of 2013 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.