

## ● VIRGINIA WORKERS' COMPENSATION ACT

*STATUTORY CITATION:* Va. Code §§ 65.2-100 – 65.2-1206

*GENERAL SUMMARY:* The Virginia Workers' Compensation Act makes most employers in the state liable for the payment of compensation in the event of personal injury or death of an employee in a job-related accident, or for the disablement or death of a worker from an occupational disease. In addition, employers must cover the cost of medical attention and vocational rehabilitation required as a result of the accident or disease.

Every employer subject to the Act must insure the liability to pay compensation by (1) purchasing a prescribed workers' compensation insurance policy and keeping it in effect, (2) obtaining membership in a licensed group self-insurance association, (3) providing the state with proof of financial ability to pay compensation directly, or (4) entering into an agreement with a professional employer organization. An employer who complies through one of these four options is generally protected against all further claims in connection with a compensable injury, illness or death, and the worker or worker's dependents have no further legal recourse. On the other hand, an employer's refusal or neglect to secure workers' compensation coverage is punishable by a fine of up to \$50,000 and exposes the employer to a damage suit for each occupational injury or disease that may occur; in any such suit the Act strips the employer of the right to claim as a defense that the injury resulted from the worker's negligence or the negligence of a co-worker, or that the worker had assumed the risk that led to the injury or disease.

With some exceptions, the requirements of the act apply to employers with 3 or more employees.

*PROVISIONS APPLICABLE TO AGRICULTURE:* Farm operators and other agricultural establishments that regularly employ more than 3 full-time employees are subject to the Workers' Compensation Act, and farmworkers performing services for such an employer are entitled to compensation for lost wages and medical treatment for injury on the job.

### *SPECIAL NOTES OR ADVISORIES*

**RETALIATION** — An employer is prohibited from firing an employee solely because the employee has filed or intends to file a workers' compensation claim, or because the employee has testified or is about to testify in any workers' comp-related proceeding. A worker who has suffered from such retaliation may bring civil action against the employer for damages, using a private attorney or public legal service provider.

### *ADMINISTRATION AND ENFORCEMENT*

**PRIMARY ENFORCEMENT AGENCY** — *Virginia Workers' Compensation Commission, Richmond, Virginia 23220 (toll-free 877-664-2566)*. The Commission is responsible for assuring that employers subject to the Act secure workers' compensation insurance or have alternative means of providing compensation for their employees, and for seeing that eligible claimants receive the benefits to which they are entitled. The right to benefits may be lost unless the employee files a claim with the Commission within 2 years from the date of the accident (or, in the case of an occupational disease, within 2 years from the date the doctor tells the employee the disease is work-related, or 5 years from the date the employee was last exposed to the work condition causing the disease, whichever is sooner). A worker who has suffered an injury in connection with employment (or the dependent of any worker killed or injured on the job) who disputes or questions a decision by an employer or insurance carrier concerning workers' compensation coverage, eligibility or benefits, may apply to the Commission for a hearing.

**SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY** — *None*.