

Date of Hearing: July 16, 2025

ASSEMBLY COMMITTEE ON INSURANCE
Lisa Calderon, Chair
SB 847 (Reyes) – As Introduced February 21, 2025

SENATE VOTE: 38-0

SUBJECT: Workers' compensation: uninsured employer: transfer of real property

SUMMARY: Authorizes the Director of the Department of Industrial Relations (DIR) to make a prima facie finding that a transfer of property by an "uninsured employer" was executed to avoid the lawful imposition lien on the property. Specifically, **this bill:**

- 1) Authorizes the Director of the DIR to determine whether a transfer of real property by the uninsured employer, or a substantial shareholder, intended to retain a beneficial interest in the real property and created a resulting trust for the benefit of the transferor.
- 2) Authorizes the Director to make a prima facie finding that the transaction created a resulting trust for the benefit of the uninsured employer or substantial shareholder when there is sufficient evidence to show either of the following circumstances are present:
 - a) The recorded vesting deed indicates that the transfer was made as a gift or that no transfer tax to the county was paid.
 - b) Certain factors, as enumerated, indicate that the transferor made the transfer with actual intent to hinder, delay, or defraud collection of reimbursement for funds paid by the Uninsured Employers Benefits Trust Fund to or on behalf of an injured worker.
- 3) Requires the Director to record a certificate of lien attached to that resulting trust in the property, when the Director determines that a transfer of real property by the uninsured employer or a substantial shareholder created a resulting trust for the benefit of such transferor. This constitutes a valid lien against the property in the same manner as if the transfer had not occurred.
- 4) Requires the Director to mail written notices of the prima facie determination of that resulting trust to the transferor and transferee at their address as shown on the recorded vesting deed, the official address record of the appeals board, and to any other more recent addresses the Director may have.

EXISTING LAW:

- 1) Establishes a comprehensive system of workers' compensation that provides a range of benefits for an employee who suffers from an injury or illness that arises out of and in the course of employment, regardless of fault. This system requires all employers to insure payment of benefits by either securing the consent of the DIR to self-insure or by obtaining insurance. (Labor Code Sections 3200-6002. Subsequent citations refer to this code.)
- 2) Provides that if the employer has failed to pay workers' compensation, the Director shall determine whether the employer was illegally uninsured. If the employer fails to provide a written statement within 10 days, if there is a written denial by the insurer, or if there is no

existing record of the employer's insurance with the Workers' Compensation Insurance Rating Bureau, it shall constitute sufficient evidence for a prima facie case that the employer failed to secure the payment of compensation. (Section 3715 (c))

- 3) Requires, when the Director determines that an employer was prima facie illegally uninsured, the Director to mail a written notice of the determination to the employer at their address on record. The notice must advise the employer of their right to appeal the finding, and that a lien may be placed against the employer's and any parent corporation's property, or the property of substantial shareholders of a corporate employer, as defined. An employer may appeal the finding by filing a petition before the appeals board. (Section 3715 (d))
- 4) Provides that if an employer fails to pay workers' compensation to a person entitled to it or fails to furnish a bond, then an award shall be paid to the injured employee or his or her dependents by the Director from the Uninsured Employers Benefits Trust Fund (UEBTF), which is continuously appropriated. (Section 3716)
- 5) Provides that in the event the appeals board finds that a corporation is the employer of an injured employee, and that the corporation has failed to pay workers' compensation, the following persons are jointly and severally liable with the corporation: 1) all persons who are a parent of the corporation, and 2) all persons who are substantial shareholders, as defined in subdivision (b), of the corporation or its parent. (Section 3717.)
- 6) Defines "substantial shareholder" as a shareholder who owns at least 15 percent of the total value of all classes of stock, or, if no stock has been issued, who owns at least 15 percent of the beneficial interests in the corporation. (Section 3717 (b).)
- 7) Provides that when the appeals board or Director determines that an employer has failed to pay workers' compensation, or when the Director has determined that an employer is prima facie illegally uninsured, the Director may file a certificate of lien showing the date that the employer was determined to be illegally uninsured, or the date that the Director has determined that the employer was prima facie illegally uninsured, and the name and address of the employer against whom it was filed, as specified, in the office of the county recorder in the counties where the employer's property is possibly located. (Section 3720.)
- 8) Provides that in any claim in which the alleged uninsured employer is a corporation, for purposes of filing certificates of lien, the Director may determine whether a person is prima facie a parent or substantial shareholder. Any person aggrieved by a finding of the Director that they were prima facie a parent or substantial shareholder may request a hearing on the finding by filing a written request for hearing with the Director. (Section 3720.1.)

FISCAL EFFECT: Unknown.

COMMENTS:

- 1) *Purpose:* According to the author, "SB 847 ensures that an employer who illegally does not carry unemployment insurance, does not use loop holes to avoid punishment. By allowing the Department of Industrial Relations to administratively identify when property is being illegally shielded, SB 847 guarantees justice is served and protects the financial stability of the UEBTF while also providing long term, timely relief for injured workers."

- 2) *Uninsured Employers Benefits Trust Fund*: If an employer does not have valid workers' compensation insurance at the time of an employee's work-related injury, the injured employee is still entitled to medical treatment and other benefits. When illegally uninsured employers fail to pay workers' compensation benefits awarded to their injured employees by the Workers' Compensation Appeals Board, the claim is paid from the UEBTF.

The UEBTF is a special fund used to pay the claims of employees who are injured or become ill while working for an illegally uninsured employer, including medical treatment. The UEBTF is not the employer's insurance carrier or self-insured employer's third party administrator. The Director of DIR has the right to recover all benefits paid from the fund to cover the injured worker's claim, including by recording a certificate of lien against the uninsured employers' real property. Once the lien is attached to the real property, the Director can collect the amount the UEBTF is owed when the employer sells or refinances their property.

The property lien has proven to be a successful method for the UEBTF to recoup its costs, but author and sponsors note that some of the worst offending uninsured employers transfer their residential and rental properties for little to no compensation to relatives and friends before the UEBTF is able to record its lien. This bill is intended to discourage and prevent the transfer of property by illegally uninsured employers to avoid paying what they owe to the UEBTF.

As part of this UEBTF collection process, the Director currently has the authority to make prima facie determinations on two issues: 1) whether the employer was illegally operating without workers' compensation insurance, and 2) if an individual who holds a 15 percent interest in the employer entity qualifies as a "substantial shareholder" of the entity (i.e., a corporation or limited liability company).

SB 847 would provide a similar framework to use the same prima facie determination when the illegally uninsured employer or substantial shareholder transfers real property to a relative or friend for no or little compensation. The prima facie determinations may also be made under other circumstances including such as that the deed indicates that the transfer was made as a gift or that no transfer tax to the county was paid.

- 3) *Double Referral*. This bill was previously heard in the Assembly Judiciary Committee and passed out on a 12-0 vote.

REGISTERED SUPPORT / OPPOSITION:

Support

California Applicants' Attorneys Association

Opposition

None on file.

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