

(I) BEFORE THE COMMISSION; OR

(II) ON APPEAL.

(2) IF THE SUBSEQUENT INJURY FUND IS IMPEADED ON APPEAL BEFORE A CIRCUIT COURT OR THE COURT OF SPECIAL APPEALS, THE COURT SHALL:

(I) SUSPEND FURTHER PROCEEDINGS; AND

(II) REMAND THE CASE TO THE COMMISSION FOR FURTHER PROCEEDINGS TO GIVE THE SUBSEQUENT INJURY FUND AN OPPORTUNITY TO DEFEND AGAINST THE CLAIM.

REVISOR'S NOTE: This section is new language derived without substantive change from the ninth and tenth sentences of former Art. 101, § 66(5).

In subsection (a)(1) of this section, the word "attorneys" is deleted as unnecessary in light of the word "attorney" and Art. 1, § 8 of the Code, which provides that the singular includes the plural.

The Labor and Employment Article Review Committee notes, for consideration by the General Assembly, that under subsection (a)(1) of this section, the Commission or a party could give notice to the State Treasurer that the Subsequent Injury Fund is or may be involved in a case and not give notice to the attorney for the Subsequent Injury Fund. This could result in the attorney for the Fund being unaware that the Fund is or may be involved in a case. The General Assembly may wish to consider deleting the reference to the State Treasurer and requiring notice to be given in each instance to the attorney for the Fund.

Defined term: "Commission" § 9-101

9-808. JUDICIAL REVIEW.

WHEN AN AWARD IS MADE AGAINST THE SUBSEQUENT INJURY FUND, THE SUBSEQUENT INJURY FUND MAY APPEAL THE DECISION IN ACCORDANCE WITH SUBTITLE 7 OF THIS TITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from the eighth sentence of former Art. 101, § 66(5).

SUBTITLE 9. LIABILITY OF THIRD PARTIES.

9-901. CHOICE OF PROCEEDING AGAINST THIRD PARTY OR EMPLOYER.

WHEN A PERSON OTHER THAN AN EMPLOYER IS LIABLE FOR THE INJURY OR DEATH OF A COVERED EMPLOYEE FOR WHICH COMPENSATION IS PAYABLE UNDER THIS TITLE, THE COVERED EMPLOYEE OR, IN CASE OF DEATH, THE PERSONAL REPRESENTATIVE OR DEPENDENTS OF THE COVERED EMPLOYEE MAY: