

section 921(c) of this title” after “with respect to death or total disability due to pneumoconiosis arising out of employment in such mine”.

Subsec. (b). Pub. L. 95-239, §7(b), provided that an employer, other than an operator of a coal mine, shall not be required to secure the payment of benefits with respect to any employee of that employer to the extent that the employee is engaged in the transportation of coal or in coal mine construction and authorized the Secretary to require an employer to secure a bond or otherwise guarantee the payment of benefits.

Subsec. (c). Pub. L. 95-239, §7(c), struck out reference to regulations of the Secretary of Health, Education, and Welfare and substituted “employment in a mine during a period after December 31, 1969, when it was operated” for “employment in a mine during the period when it was operated”.

Subsec. (e)(3). Pub. L. 95-239, §7(d), struck out par. (3) which had provided that no payment of benefits could be required under this section for any period after twelve years after Dec. 30, 1969.

Subsec. (f). Pub. L. 95-239, §7(e), provided that any claim for benefits by a miner under this section be filed within three years after the later of either a medical determination of total disability due to pneumoconiosis or March 1, 1978, and struck out provisions which had set special limitations on the filing of a claim by a widow.

Subsec. (h). Pub. L. 95-239, §7(f), struck out provision under which the regulations of the Secretary of Health, Education, and Welfare promulgated under section 921 of this title had also been applicable to claims under this section.

Subsec. (i)(1). Pub. L. 95-239, §7(g), imposed claim liability on operators who acquired a mine from a prior operator on or after Jan. 1, 1970, with respect to benefits to miners previously employed by a prior operator, as if the acquisition had not occurred.

Subsec. (i)(2). Pub. L. 95-239, §7(g), reenacted par. (2) without change.

Subsec. (i)(3), (4). Pub. L. 95-239, §7(g), added pars. (3) and (4).

Subsecs. (j) to (l). Pub. L. 95-239, §7(h), added subsecs. (j) to (l).

1972—Subsec. (a). Pub. L. 92-303, §§3(b), 5(2), (9), substituted “a coal mine” for “an underground coal mine”, “1973” for “1972” and struck out reference to section 7 of Pub. L. 803, 69th Congress (44 Stat. 1424, approved March 4, 1927), respectively.

Subsec. (e)(2). Pub. L. 92-303, §5(3), substituted “January 1, 1974” for “January 1, 1973”.

Subsec. (e)(3). Pub. L. 92-303, §5(4), substituted “twelve years” for “seven years”.

Subsec. (f). Pub. L. 92-303, §8, designated existing provisions as par. (1) and added par. (2).

Subsec. (h). Pub. L. 92-303, §3(a), substituted “coal mine” for “underground coal mine”.

#### EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-148 applicable with respect to claims filed under parts B and C of this subchapter after Jan. 1, 2005, that are pending on or after Mar. 23, 2010, see section 1556(c) of Pub. L. 111-148, set out as a note under section 921 of this title.

#### EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-426 effective Sept. 28, 1984, and applicable both with respect to claims filed after such date and to claims pending on such date, see section 28(a) of Pub. L. 98-426, set out as a note under section 901 of Title 33, Navigation and Navigable Waters.

#### EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by sections 203(a)(6), (b), 204, 205(a) of Pub. L. 97-119 effective Jan. 1, 1982, except as otherwise provided, see section 206(a) of Pub. L. 97-119, set out as a note under section 901 of this title.

#### EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-239 effective Mar. 1, 1978, see section 20(a) of Pub. L. 95-239, set out as a note under section 901 of this title.

#### EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by section 3(a), (b) of Pub. L. 92-303 effective Dec. 30, 1969, see section 3(c) of Pub. L. 92-303, set out as a note under section 901 of this title.

### § 932a. Appointment of qualified individuals to hear and determine claims for benefits

Qualified individuals appointed by the Secretary of Labor may hear and determine claims for benefits under part B or part C of title IV of the Federal Coal Mine Health and Safety Act of 1969<sup>1</sup> [30 U.S.C. 921 et seq., 931 et seq.] and under section 415 of such Act [30 U.S.C. 925]. For purposes of this section, the term “qualified individual” means such an individual, regardless of whether that individual is a hearing examiner appointed under section 3105 of title 5. Nothing in this section shall be deemed to imply that there is or is not in effect any authority for such individuals to hear and determine such claims under any provision of law other than this section.

(Pub. L. 94-504, Oct. 15, 1976, 90 Stat. 2428; Pub. L. 107-275, §2(b)(5), Nov. 2, 2002, 116 Stat. 1926.)

#### REFERENCES IN TEXT

The Federal Coal Mine Health and Safety Act of 1969, referred to in text, is Pub. L. 91-173, Dec. 30, 1969, 83 Stat. 742, as amended, which was renamed the Federal Mine Safety and Health Act of 1977 by Pub. L. 95-164, title I, §101, Nov. 9, 1977, 91 Stat. 1290. Parts B and C of title IV of the Federal Mine Safety and Health Act of 1977 are classified generally to part B (§921 et seq.) of this subchapter and to this part (§931 et seq.), respectively. For complete classification of this Act to the Code, see Short Title note set out under section 801 of this title and Tables.

#### CODIFICATION

Section was not enacted as part of the Federal Mine Safety and Health Act of 1977 which comprises this chapter or the Black Lung Benefits Act which comprises this subchapter.

#### AMENDMENTS

2002—Pub. L. 107-275 substituted “under part B or part C” for “under part C”.

#### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-275 effective 90 days after Nov. 2, 2002, see section 4 of Pub. L. 107-275, set out as a note under section 902 of this title.

#### EXTENSION OF ADJUDICATION PERIOD THROUGH MARCH 1, 1979

Pub. L. 95-239, §7(i), Mar. 1, 1978, 92 Stat. 100, authorized individuals appointed to hear and determine claims for benefits under this part and under section 925 of this title pursuant to this section, notwithstanding the provisions of section 932(a) of this title, to continue to adjudicate such claims during the one-year period following Mar. 1, 1978.

### § 933. Duties of operators in States not qualifying under workmen’s compensation laws

#### (a) Securing of benefits for miners; self-insurers; mutual companies

During any period in which a State workmen’s compensation law is not included on the list published by the Secretary under section 931(b) of this title each operator of a coal mine in such

<sup>1</sup> See References in Text note below.

State shall secure the payment of benefits for which he is liable under section 932 of this title by (1) qualifying as a self-insurer in accordance with regulations prescribed by the Secretary, or (2) insuring and keeping insured the payment of such benefits with any stock company or mutual company or association, or with any other person or fund, including any State fund, while such company, association, person or fund is authorized under the laws of any State to insure workmen's compensation.

**(b) Required provisions of insurance contracts**

In order to meet the requirements of clause (2) of subsection (a) of this section, every policy or contract of insurance must contain—

(1) a provision to pay benefits required under section 932 of this title, notwithstanding the provisions of the State workmen's compensation law which may provide for lesser payments;

(2) a provision that insolvency or bankruptcy of the operator or discharge therein (or both) shall not relieve the carrier from liability for such payments; and

(3) such other provisions as the Secretary, by regulation, may require.

**(c) Cancellation of insurance contracts**

No policy or contract of insurance issued by a carrier to comply with the requirements of clause (2) of subsection (a) of this subsection<sup>1</sup> shall be canceled prior to the date specified in such policy or contract for its expiration until at least thirty days have elapsed after notice of cancellation has been sent by registered or certified mail to the Secretary and to the operator at his last known place of business.

**(d) Penalties for failure to secure payment of benefits**

(1) Any employer required to secure the payment of benefits under this section who fails to secure such benefits shall be subject to a civil penalty assessed by the Secretary of not more than \$1,000 for each day during which such failure occurs. In any case where such employer is a corporation, the president, secretary, and treasurer thereof also shall be severally liable to such civil penalty as provided in this subsection for the failure of such corporation to secure the payment of benefits. Such president, secretary, and treasurer shall be severally personally liable, jointly with such corporation, for any benefit which may accrue under this subchapter in respect to any disability which may occur to any employee of such corporation while it shall so fail to secure the payment of benefits as required by this section.

(2) Any employer of a miner who knowingly transfers, sells, encumbers, assigns, or in any manner disposes of, conceals, secretes,<sup>2</sup> or destroys any property belonging to such employer, after any miner employed by such employer has filed a claim under this subchapter, and with intent to avoid the payment of benefits under this subchapter to such miner or his or her dependents, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of

not more than \$1,000, or by imprisonment for not more than one year, or both. In any case where such employer is a corporation, the president, secretary, and treasurer thereof also shall be severally liable for such penalty of imprisonment as well as jointly liable with such corporation for such fine.

(3) This subsection shall not affect any other liability of the employer under this part.

(Pub. L. 91-173, title IV, §423, Dec. 30, 1969, 83 Stat. 797; Pub. L. 92-303, §3(b), May 19, 1972, 86 Stat. 153; Pub. L. 95-239, §8, Mar. 1, 1978, 92 Stat. 100.)

AMENDMENTS

1978—Subsec. (d). Pub. L. 95-239 added subsec. (d).

1972—Subsec. (a). Pub. L. 92-303 substituted "a coal mine" for "an underground coal mine".

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-239 effective Mar. 1, 1978, see section 20(a) of Pub. L. 95-239, set out as a note under section 901 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-303 effective Dec. 30, 1969, see section 3(c) of Pub. L. 92-303, set out as a note under section 901 of this title.

**§ 934. "Fund" defined; liability of operators to United States for repayments to fund; procedures applicable; rate of interest**

(a) For purposes of this section, the term "fund" has the meaning set forth in section 902(h) of this title.

(b)(1) If—

(A) an amount is paid out of the fund to an individual entitled to benefits under section 932 of this title, and

(B) the Secretary determines, under the provisions of sections 932 and 933 of this title, that an operator was required to secure the payment of all or a portion of such benefits,

then the operator is liable to the United States for repayment to the fund of the amount of such benefits the payment of which is properly attributed to him plus interest thereon. No operator or representative of operators may bring any proceeding, or intervene in any proceeding, held for the purpose of determining claims for benefits to be paid by the fund, except that nothing in this section shall affect the rights, duties, or liabilities of any operator in proceedings under section 932 or section 933 of this title. In a case where no operator responsibility is assigned pursuant to sections 932 and 933 of this title, a determination by the Secretary that the fund is liable for the payment of benefits shall be final.

(2) If any operator liable to the fund under paragraph (1) refuses to pay, after demand, the amount of such liability (including interest), then there shall be a lien in favor of the United States for such amount upon all property and rights to property, whether real or personal, belonging to such operator. The lien arises on the date on which such liability is finally determined, and continues until it is satisfied or becomes unenforceable by reason of lapse of time.

(3)(A) Except as otherwise provided under this subsection, the priority of the lien shall be determined in the same manner as under section

<sup>1</sup> So in original. Probably should be "section".

<sup>2</sup> So in original. Probably should be "secretes,".