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## Benefits under the Workers' Compensation Act

By Regina Morris Parker, Esquire



If you are injured on the job or contract a work-related disease, you may be eligible to receive compensation from your employer pursuant to the Pennsylvania Workers' Compensation Act, including medical benefits, loss of earnings benefits and specific loss benefits. The Act also compensates widows or widowers and immediate family

members who have lost a loved one because of an on-the-job accident or occupational disease.

If you are injured at work, it is important to immediately report it to your employer, even if the injury does not cause you to miss time from work. By law, you have 120 days to report the injury to your employer. If you do not provide notice within 21 days, you will not be entitled to workers' compensation benefits until the date that you actually give notice, as long as notice is given within 120 days. Failure to give notice within 120 days will prevent you from collecting workers' compensation wage loss and medical benefits.

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## Conservatorship for Abandon Properties

By Michael Mattioni, Esquire and Peter Yoon, Esquire

On February 24, 2009, the Abandoned and Blighted Property Conservatorship Act, Act 135 of 2008, became effective in Pennsylvania. The purpose of this Act is to rehabilitate buildings that are likely to remain abandoned and further deteriorate, and to bring them into compliance with municipal codes when owners fail to do so. This Act provides an opportunity for communities to modernize, revitalize, and improve the quality of life for neighbors who are already there. The Act provides for court-appointed conservators to take control of blighted, abandoned residential, commercial and industrial buildings and to rehabilitate and transform them into productive reuse.

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**Benefits under the Workers' Compensation Act**

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Generally, workers' compensation will pay for reasonable and necessary medical treatment related to the injury. Within the first 90 days after your injury, it is important to seek treatment with one of the medical providers offered by your employer. However, if your employer does not offer a physician, you should seek treatment with a provider of your choice.

An injured worker may also be entitled to receive loss of earnings benefits for total or partial disability, where workers' compensation will pay for or supplement lost wages due to an injury. Generally, this benefit is equal to 2/3 of your pre-injury weekly wages. Temporary Total Disability (TTD) benefits are payable for as long as you are unable to work. There are no specific time limits imposed by law to collect these benefits. However, after collecting these benefits for 104 weeks, you may be asked to undergo an Impairment Rating Evaluation by the workers' compensation insurance carrier. If the Impairment Rating Evaluator determines that you have less than a 50% whole body impairment, the amount of time you can collect TTD benefits is limited to a maximum of 500 weeks and you will be considered partially disabled. You are considered partially disabled if you have an ability to earn some type of wages but have not fully recovered from your work injury.

You may also be entitled to receive benefits for specific losses such as permanent loss of use of members of the body such as amputation injuries, hearing or vision loss, and disfigurement. You will be paid benefits regardless of whether you continue working at your job.

Given the complexity of the law, as well as the limitations on the rights to receive benefits, an injured employee is best advised to consult an attorney knowledgeable in workers' compensation and employment law prior to filing a claim.

**Conservatorship for Abandon Properties**

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The conservator has the power to borrow funds and incur credit for the cost of the rehabilitation and will be granted the authority to file a lien or security interest with priority over all other liens, with the exception of municipal or other governmental liens. Ultimately, upon application by the conservator, the court may grant an order for the sale of the property free and clear of all liens, claims and encumbrances and for the proceeds to be distributed as set forth in the Act.

An action for conservatorship may be filed by a party of interest in a court in the county in which the building is located. A "party in interest" is a person or entity who has a direct and immediate interest in the residential, commercial or industrial building and includes the owner, a lienholder, a non-profit corporation, a municipality, a school district or a resident or business owner within 500 feet of the building. Actions filed pursuant to Act 135 are considered "*in rem*" proceedings, which is an action directed against the property and not an individual, and the actions are commenced by the filing of a Petition for Appointment of a Conservator ("Petition"). It is important to mention that the conservator will not be held liable for any environmental damage to the building or property that existed prior to the appointment by the court.

The Petition must include a sworn statement that, to the best of the petitioner's knowledge, the property meets the conditions for conservatorship set forth in the Act. The five mandatory conditions for conservatorship that must be satisfied are:

- (1) The building has not been legally occupied for at least the previous 12 months;
- (2) The building has not been actively marketed during the 60 days prior to the date of the petition;
- (3) The building is not subject to an existing foreclosure action;
- (4) The current owner did not acquire the property within the preceding six months, excluding instances where the transfer was between family members or related companies, unless

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**Conservatorship for Abandon Properties**

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the transfer of title was the result of death of the prior owner.

- (5) The property meets at least three of the nine listed indicia of blight.

In addition, the Petition must also include copies of code violations or citations, a recommendation as to which person or entity should be appointed conservator, and a preliminary plan with initial cost estimates for rehabilitation for the building and anticipated sources of funding. The petitioner will also be required to file a notice of *lis pendens* in the office of the recorder of deeds for the county in which the property is located. Upon filing of the petition, the petitioner is required to notify the current owner of the property, all political subdivisions in which the property is located and all lienholders of the filing by registered or certified mail.

This article provides a broad overview of the Act. It does not address specific requirements of the Act, and whether any particular property will qualify for rehabilitation under Act. Given the complexity of Act 135, as well as the many other requirements contained in the Act, any person interested in seeking relief under the Act is urged to seek appropriate guidance and counseling from an attorney familiar with Act 135 of 2008.

## **Joint Tenancy – A Short Cut To Estate Planning?**

*By Michael Mattioni, Esquire and Thomas Whelihan, Esquire*

An estate is generally comprised of the total property owned by an individual prior to distribution, whether it be through a Will or a Trust. “Real” property is real estate, and “personal” property includes everything else, from jewelry to household items to money in bank accounts. Estate planning is a mechanism that distributes the real and personal property to a person’s beneficiaries upon his death.

Estate planning forces individuals to think about their own death, something most people tend to avoid. Determining how to arrange the

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**Conservatorship for Abandon Properties**

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transfer of wealth, in anticipation of death, is not always easy. Generally, estate planning has two basic aims: to preserve the maximum amount of wealth possible for intended beneficiaries; and provide the individual control and use of assets while alive, yet make sure these assets get to those intended upon death.

The most common way for individuals to pass on their wealth is through a Will. A Will outlines a person's wishes, detailing who will receive the estate upon death. A Will must be probated to be effective. The biggest benefit to probate is the court insures that the Will is implemented in an orderly manner, and that property transfers are done correctly. The disadvantages of probate are the cost, complexity, delay and lack of privacy. Once a Will is filed for probate, it becomes a public record. Probate can take considerable time, ranging from nine months to several years, while open to public scrutiny.

To avoid the delay and cost of probate, many individuals decide to own property, often a home, into joint ownership, usually with a spouse or with an adult child. Joint ownership, if titled properly, can bypass the probate process almost entirely. It allows the surviving owner to take full control and ownership of the property immediately following the "joint-owner's" death. Sounds easy, right? Why go through the hassle of probate when joint tenancy can deliver immediate ownership at a low cost?

Joint tenancy has five distinct advantages in the transfer of property: low administrative cost; convenience, speed and privacy; clear, undisputed disposition; the ability to avoid creditor's claims; and the ability to shift wealth from high-income individuals, to lower-bracketed taxpayers. To take advantage of these attributes, the property must be titled as joint tenants and have "right of survivorship." Sometimes joint tenancy is easy to confuse with "tenants in common," where two or more individuals own an undivided interest in the property. For example: A and B each have a 50% interest in a property as tenants in common. Should A die, his 50% interest in the property would pass to his heirs. This is not the case with joint tenancy. In a joint tenancy with "rights of survivorship," the surviving owner receives ownership of the entire property. In the above example, when A dies, B takes the entire

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property. A's estate would have no claim to the property.

The bottom-line is, joint tenancy can be an effective way to transfer wealth. It is quick, relatively easy, and has very little cost. It would seem to make sense to hold some property jointly, so as to easily transfer it upon death. However, you do not always get what you bargain for. A person should be careful not to rush into a joint tenancy without understanding its effect on his or her estate. One should complete a comprehensive estate plan to insure that one's wishes are accomplished. In some situations, joint ownership may suffice. For larger estates (for tax reasons), or situations where problems could arise, a well drafted Will or Trust is the only way to meet all of one's goals.

This article provides general information regarding estate planning concepts. Everyone with questions about estate planning or joint tenancy is encouraged to meet with an appropriate attorney or other appropriate professional to discuss particular estate planning issues and questions as every situation is different.



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