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541.13 COURTS; LIMITATION OF ACTIONS; PERSONS OUTSIDE STATE; ABSENCE FROM STATE. ~~If, When a cause of action accrues against a person ; he who is out of the state and while out of the state is not subject to process under the laws of this state or after diligent search he cannot be found for the purpose of personal service when personal service is required~~ , an action may be commenced within the times herein limited after his return to the state; and if, after a cause of action accrues, he departs from and resides out of the state and while out of the state is not subject to process under the laws of this state or after diligent search he cannot be found for the purpose of personal service when personal service is required , the time of his absence is not part of the time limited for the commencement of the action.

Approved April 3, 1976.

CHAPTER 154—S.F.No.1976

An act relating to workmen's compensation; providing for determination of liability and the amount of employer reimbursement in cases of third party liability; amending Minnesota Statutes 1974, Section 176.061, Subdivisions 3 and 6; repealing Minnesota Statutes 1974, Section 176.061, Subdivision 10.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1974, Section 176.061, Subdivision 3, is amended to read:

Subd. 3. WORKMEN'S COMPENSATION; THIRD PARTY LIABILITY; ELECTION TO RECEIVE COMPENSATION FROM EMPLOYER; SUBROGATION. If the employee or his dependents elect to receive compensation from the employer, such employer is subrogated to the right of the employee or his dependents to recover damages against the other party. The employer may bring legal proceedings against such party and recover the aggregate amount of compensation payable by him to the employee or his dependents, together with the costs, disbursements, and reasonable attorney's fees of the action.

If an action as provided in chapter 176 prosecuted by the employee, the employer, or both jointly against the third person, results in judgment against the third person, or settlement by the third person, the employer shall have no liability to reimburse or hold the third person harmless on the judgment or settlement in absence of a written agreement to do so executed prior to the injury.

Sec. 2. Minnesota Statutes 1974, Section 176.061, Subdivision 6, is

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amended to read:

Subd. 6. **COSTS, ATTORNEY FEES, EXPENSES.** The proceeds of all actions for damages or settlement thereof under section 176.061, received by the injured employee or his dependents or by the employer as provided by subdivision 5, shall be divided as follows:

(a) After deducting the reasonable cost of collection, including but not limited to attorneys fees and burial expense in excess of the statutory liability, then

(b) One-third of the remainder shall in any event be paid to the injured employee or his dependents, without being subject to any right of subrogation.

(c) Out of the balance remaining, the employer shall be reimbursed ~~for-in an amount equal to~~ all compensation paid under chapter 176 ~~to the employee or his dependents by the employer less the product of the costs deducted under clause (a) divided by the total proceeds received by the employee or his dependents from the other party multiplied by all compensation paid by the employer to the employee or his dependents~~ .

(d) Any balance remaining shall be paid to the employee or his dependents, and shall be a credit to employer for any compensation which employer is obligated to pay, but has not paid, and for any compensation that such employer shall be obligated to make in the future.

There shall be no reimbursement or credit to employer for interest or penalties.

Sec. 3. Minnesota Statutes 1974, Section 176.061, Subdivision 10, is repealed.

Sec. 4. This act is effective on the day following its final enactment.

Approved April 3, 1976.

CHAPTER 155—S.F.No.2033

[Coded in Part]

An act relating to municipalities; clarifying the application of certain laws to certain municipalities; authorizing certain investments; bidding for certain government insurance contracts; amending Minnesota Statutes 1974, Section 471.616, Subdivision 1; Minnesota Statutes, 1975 Supplement, Section 471.561 and Laws 1976, Chapter 44, Section 19.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MIN-

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