

TOPIC 17 LIEN AGAINST ASSETS

17.1 GENERALLY

Section 17 of the LHWCA provides:

Where a trust fund which complies with section 302(c) of the Labor-Management Relations Act of 1947 (20 U.S.C. § 186(c)) established pursuant to a collective-bargaining agreement in effect between an employer and employee covered under this Act has paid disability benefits to an employee which the employee is legally obligated to repay by reason of his entitlement to compensation under this Act or under a settlement, the Secretary shall authorize a lien on such compensation in favor of the trust fund for the amount of such payments.

33 U.S.C. § 917.

Section 17 provides an **exception to Section 16**. If a claimant, who has received disability benefits from a trust fund under Section 302(c) of the Labor-Management Relations Act of 1947, is found to be entitled to compensation benefits under the LHWCA or under a settlement, the Secretary shall authorize a lien on these benefits in favor of the trust fund.

In MacDonald v. Trailer Marine Transport Corp., 18 BRBS 259 (1986), the Board noted that the judge had properly allowed intervention of the pension fund because it was a Taft-Hartley Trust entitled to a statutory lien on the claimant's compensation under Section 17 of the LHWCA. This lien will be authorized only in favor of a trust fund. Thus, in Harris v. Sun Shipbuilding & Dry Dock Co., 6 BRBS 494 (1977), vacated on other grounds sub nom. Aetna Life Ins. Co. v. Harris, 578 F.2d 52 (3d Cir. 1978), recovery by Aetna of benefits paid claimant under a group sickness and accident plan was denied as not falling within this section.