

House Engrossed Senate Bill

workers' compensation; fraud investigations; adjudications

State of Arizona
Senate
Fifty-sixth Legislature
First Regular Session
2023

SENATE BILL 1164

AN ACT

AMENDING TITLE 23, CHAPTER 6, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 23-934; AMENDING SECTION 1, AS ADDED BY HOUSE BILL 2431, FIFTY-SIXTH LEGISLATURE, FIRST REGULAR SESSION, AS TRANSMITTED TO THE GOVERNOR; RELATING TO WORKERS' COMPENSATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 23, chapter 6, article 2, Arizona Revised
3 Statutes, is amended by adding section 23-934, to read:

4 23-934. Fraud; investigations; rules

5 A. THE COMMISSION SHALL ESTABLISH A FRAUD UNIT FOR THE PURPOSE OF
6 INVESTIGATING FRAUDULENT ACTIVITIES, STATEMENTS OR REPRESENTATIONS MADE IN
7 CONNECTION WITH WORKERS' COMPENSATION CLAIMS. THE FRAUD UNIT MAY
8 INVESTIGATE ALLEGATIONS OF FRAUD EITHER ON RECEIVING A COMPLAINT OR ON THE
9 FRAUD UNIT'S OWN MOTION. ANY ALLEGATION INVOLVING UNFAIR CLAIM PROCESSING
10 PRACTICES OR BAD FAITH BY AN EMPLOYER, SELF-INSURED EMPLOYER, INSURANCE
11 CARRIER OR CLAIMS PROCESSING REPRESENTATIVE SHALL BE ADDRESSED PURSUANT TO
12 SECTION 23-930.

13 B. THE COMMISSION SHALL ADOPT RULES TO ESTABLISH A PROCESS FOR
14 RECEIVING FRAUD COMPLAINTS AND CONDUCTING FRAUD INVESTIGATIONS PURSUANT TO
15 THIS SECTION. THE RULES SHALL ESTABLISH:

16 1. A PROCESS BY WHICH THE FRAUD UNIT VERIFIES CLAIMANT ANNUAL
17 EARNINGS REPORTED PURSUANT TO SECTION 23-1047 WITH THE DEPARTMENT OF
18 ECONOMIC SECURITY UNEMPLOYMENT INSURANCE INFORMATION FOR THE PURPOSE OF
19 INVESTIGATING WORKERS' COMPENSATION FRAUD.

20 2. A PROCESS OF TIMELINESS FOR RECEIVING AND PROCESSING FRAUD
21 COMPLAINTS.

22 3. CRITERIA FOR DETERMINING WHICH ALLEGATIONS OF FRAUD WARRANT
23 INVESTIGATION.

24 4. DUTIES AND AUTHORITIES OF FRAUD INVESTIGATORS, INCLUDING ISSUING
25 AND SERVING SUBPOENAS FOR WITNESSES AND DOCUMENTARY EVIDENCE, TAKING
26 DEPOSITIONS, ADMINISTERING OATHS AND EXAMINING WITNESSES UNDER OATH
27 RELEVANT TO THE FRAUD INVESTIGATION.

28 C. IF, ON INVESTIGATION, THE FRAUD UNIT IS SATISFIED THAT
29 FRAUDULENT ACTIVITIES, STATEMENTS OR REPRESENTATIONS WERE MADE IN
30 CONNECTION WITH A WORKERS' COMPENSATION BENEFITS OR PAYMENTS CLAIM FOR THE
31 PURPOSE OF OBTAINING COMPENSATION BENEFITS OR PAYMENTS, THE FRAUD UNIT MAY
32 REPORT VIOLATIONS OF LAW TO THE CLAIMANT OR CLAIMANT'S REPRESENTATIVE, TO
33 THE REPORTING EMPLOYER, SELF-INSURED EMPLOYER OR INSURANCE CARRIER, TO THE
34 APPROPRIATE LICENSING AGENCY AS DEFINED IN SECTION 20-466.04, AND TO THE
35 APPROPRIATE COUNTY ATTORNEY OR THE ATTORNEY GENERAL FOR PROSECUTION.

36 D. THIS SECTION DOES NOT LIMIT ANY OF THE FOLLOWING:

37 1. THE AUTHORITY OF THE COMMISSION, THE DEPARTMENT OF INSURANCE AND
38 FINANCIAL INSTITUTIONS OR ANY OTHER ENTITY TO PURSUE ANY REMEDY PURSUANT
39 TO SECTION 23-970 OR 23-1028.

40 2. THE OBLIGATION OF AN INSURER TO REPORT A FRAUD CLAIM PURSUANT TO
41 SECTION 20-466, SUBSECTION G.

1 Sec. 2. Section 1, as added by House Bill 2431, fifty-sixth
2 legislature, first regular session, as transmitted to the governor, is
3 amended to read:

4 Section 1. Commercial workers' compensation; firefighters;
5 rate deviations; experience modifications;
6 Covid-19; intent; delayed repeal

7 A. **NOTWITHSTANDING SECTION 20-344, ARIZONA REVISED STATUTES,**
8 commercial workers' compensation insurers that cover firefighters and fire
9 investigators may charge and collect additional premiums from fire
10 districts to offset and recover Covid-19-related claims costs paid by the
11 insurer before July 1, 2023 to the extent the fire district is able to
12 obtain reimbursement for such additional premium charges from the American
13 Rescue Plan Act of 2021. This additional premium is in addition to the
14 rate deviations prescribed in section 20-359, Arizona Revised Statutes,
15 and any experience modifications prescribed in section 23-963.01, Arizona
16 Revised Statutes. A commercial workers' compensation insurer may charge a
17 premium only if the insurance policy includes a provision that would allow
18 the insurer to charge an additional premium.

19 B. The **TOTAL AGGREGATE** maximum amount of the additional premium
20 each commercial workers' compensation insurer may charge and collect **FROM**
21 **ALL FIRE DISTRICT INSUREDS** pursuant to subsection A of this section is
22 \$800,000. Notwithstanding subsection A of this section, a commercial
23 workers' compensation insurer may not include any Covid-19-related claims
24 costs for which the insurer charges and collects additional premiums
25 pursuant to subsection A of this section in any experience modification
26 charged to the fire district.

27 C. The legislature intends that this section not delay payment of
28 fire districts' eligible COVID-19-related expenses by the industrial
29 commission of Arizona using American Rescue Plan Act monies allocated as
30 part of the fiscal year 2022-2023 budget.

31 D. This section is repealed from and after December 31, 2024.

32 Sec. 3. Conditional enactment

33 Section 2 of this act does not become effective unless House Bill
34 2431, fifty-sixth legislature, first regular session, relating to
35 commercial workers' compensation for firefighters, becomes law.