

REFERENCE TITLE: workers' compensation rates; deviation

State of Arizona
House of Representatives
Fifty-sixth Legislature
Second Regular Session
2024

HB 2204

Introduced by
Representative Livingston

AN ACT

AMENDING SECTIONS 20-343 AND 20-359, ARIZONA REVISED STATUTES; RELATING TO RATES AND RATING ORGANIZATIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 20-343, Arizona Revised Statutes, is amended to
3 read:

4 20-343. Definitions

5 In this article, unless the context otherwise requires:

6 1. "ASSOCIATION" MEANS A DOMESTIC NONPROFIT CORPORATION WITH A
7 PROFESSIONAL, COMMERCIAL, INDUSTRIAL OR TRADE CHARACTER OF BUSINESS.

8 ~~1.~~ 2. "Board" means the workers' compensation appeals board
9 established by section 20-367.

10 ~~2.~~ 3. "Classification plan" means the plan or system that groups
11 industries, occupations or operations with a similar exposure to loss into
12 rate classifications for workers' compensation rating, rate making and
13 statistical reporting purposes.

14 ~~3.~~ 4. "Designated rating organization" means the rating
15 organization selected by the director pursuant to section 20-371,
16 subsection F.

17 ~~4.~~ 5. "Designated statistical agent" means the organization
18 designated by the director under section 20-371, subsection D.

19 ~~5.~~ 6. "Experience rating plan" means a mandatory rating plan for
20 all eligible insureds that establishes a workers' compensation rating
21 procedure that compares the actual loss experience of individual insureds
22 to the industry average for the same classification with differences
23 reflected in the insured's premium.

24 ~~6.~~ 7. "Schedule rating plan" means a rating plan by which an
25 insurer increases or decreases workers' compensation rates to reflect the
26 individual risk characteristics or the loss ratios of the subject of
27 insurance.

28 ~~7.~~ 8. "Statistical plan" means the plan, system or arrangement
29 used in collecting workers' compensation data.

30 ~~8.~~ 9. "Uniform plan" means a workers' compensation statistical
31 plan, classification plan or experience rating plan designated by the
32 director pursuant to section 20-371, subsection J.

33 ~~9.~~ 10. "Uniform rate filing" means the rate filing that is made by
34 the designated rating organization and that includes all of the workers'
35 compensation rates to which insurers transacting workers' compensation
36 insurance in this state shall adhere except as provided in section 20-359,
37 subsections A and B. Uniform rate filing also includes the expected loss
38 ratios, ballast factors and other factors promulgated by the designated
39 rating organization for the uniform experience rating plan.

40 ~~10.~~ 11. "Workers' compensation rates" means rates for workers'
41 compensation and employers' liability insurance incident to and written in
42 connection with workers' compensation.

1 Sec. 2. Section 20-359, Arizona Revised Statutes, is amended to
2 read:

3 20-359. Deviations from filed workers' compensation rates

4 A. Every insurer shall adhere to the filings made by the rating
5 organization of which it is a member, except that any member insurer may
6 file with the director:

7 1. Up to six uniform percentage deviations that decrease or
8 increase the statewide rate portion of the rating organization's rate
9 filing. If more than one deviation is filed by an insurer, each deviation
10 must be established consistent with the underwriting rules that are based
11 on criteria that would lead to a logical distinction of potential risk.

12 2. A subclassification rate related rule that deviates from the
13 rules or schedule rating plan filed by the insurer's rating organization.
14 An insurer shall not simultaneously apply a deviation and a schedule
15 rating to the same insured risk.

16 3. A PREMIUM CREDIT OF NOT MORE THAN FIVE PERCENT FROM THE RATING
17 ORGANIZATION'S UNIFORM RATE FILING BASED ON A POLICYHOLDER'S MEMBERSHIP IN
18 AN ASSOCIATION.

19 B. In addition to the six uniform percentage deviations authorized
20 under subsection A, paragraph 1 of this section, insurers covering
21 firefighters and fire investigators may file one uniform percentage
22 deviation that increases the statewide rates under the rating
23 organization's rate filing for the class codes associated with
24 firefighters and fire investigators to address the anticipated increase in
25 losses and expenses for claims that are compensable pursuant to section
26 23-901.09. The deviation filing shall be accompanied by AN analysis from
27 an actuary that substantively illustrates the basis for the rate increase,
28 including information made available by the industrial commission of
29 Arizona pursuant to section 23-971 and the anticipated and, when
30 available, actual combined loss ratio, claim frequency and claim severity
31 associated with these claims. The supporting documentation submitted with
32 the filing must be sufficient to allow the department to assess the
33 reasonableness of the insurer's assumptions and justification for the
34 deviation and shall include data related to workers' compensation
35 indemnity and medical claims and administrative expenses associated
36 specifically with presumptive coverage related to workers' compensation
37 claims. The insurer may use data or ~~analysis~~ ANALYSES from any of the
38 following sources:

- 39 1. The insured or insurer.
- 40 2. Self-funded employers providing workers' compensation.
- 41 3. The industrial commission of Arizona.
- 42 4. A risk retention pool.
- 43 5. Studies and information illustrating the state and national
44 frequency of cancer among firefighters and fire investigators.
- 45 6. The assigned risk pool or assigned risk.

1 7. Claims and expense data from other relevant lines of insurance
2 such as long-term disability insurance, group or individual major medical
3 insurance or long-term care insurance.

4 8. Other available cancer-related statistics.

5 9. Relevant incurred but not reported workers' compensation claims
6 ~~data~~.

7 C. The director may use independent contractor examiners to analyze
8 the supporting justification of a requested deviation under subsection B
9 of this section pursuant to section 20-358, subsection D.

10 D. Notwithstanding subsection A, paragraph 2 of this section, in
11 addition to the deviation filing authorized under subsection B of this
12 section, insurers may file and apply a schedule rating plan to adjust
13 premiums associated with firefighters and fire investigators class codes,
14 based on loss control programs or activities undertaken by the insurer to
15 reduce losses associated with section 23-901.09. The schedule rating plan
16 must be filed with and approved by the director and shall be in addition
17 to and separate from any other schedule rating plan available to the
18 insurer.

19 E. Each deviation filed shall be on file with the director for a
20 waiting period of at least thirty days before it becomes effective, except
21 that a deviation filed pursuant to subsection B of this section shall be
22 on file with the director for at least sixty days before it becomes
23 effective. On written application by the insurer making the filing, the
24 director may authorize a filing to become effective before the waiting
25 period expires. A deviation that is filed pursuant to subsection A,
26 paragraph 1 of this section and that is not disapproved by the director
27 expires the following December 31 at midnight in this state unless the
28 director terminates the deviation sooner. A deviation that is filed
29 pursuant to subsection A, paragraph 2 of this section continues until the
30 insurer withdraws the deviation or the director determines that the
31 deviation no longer meets the standards prescribed in section 20-356,
32 paragraph 1. At any time the director may require an insurer to
33 actuarially support a deviation. The insurer that files the deviation
34 shall simultaneously send a copy of the filing to the rating organization
35 of which it is a member and to any designated rating organization.

36 F. A rating organization shall notify the director if the
37 organization disapproves any deviation relating to workers' compensation
38 insurance. The director shall notify the industrial commission of Arizona
39 of the disapproval within ten days after receipt of the disapproval from
40 the rating organization.