

State of Arizona
House of Representatives
Fifty-fourth Legislature
First Regular Session
2019

CHAPTER 74
HOUSE BILL 2137

AN ACT

AMENDING SECTION 23-966, ARIZONA REVISED STATUTES; 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. Section 23-966, Arizona Revised Statutes, is amended to
3 read:

4 23-966. Failure of employer to pay claim or comply with
5 commission order; reimbursement of funds

6 A. If a self-insured employer or other employer authorized by the
7 commission to process or pay claims directly pursuant to this chapter does
8 not fully comply with the provisions of the workers' compensation law
9 relating to the processing or payment of compensation, medical benefits or
10 the final orders of the commission, the workers' compensation claims shall
11 be assigned by the commission to the special fund established by section
12 23-1065. The special fund shall ensure that these claims are processed
13 and that compensation, benefits or amounts due are paid. The special fund
14 may use third-party processors or other legal, medical, claims or labor
15 market personnel to assist in the processing and payment of claims
16 assigned under this section.

17 B. In addition to expenditures authorized under subsection A of
18 this section, the special fund may use monies for any expense or service
19 that is necessary to ensure that claims assigned under subsection A of
20 this section are processed and paid, necessary to assist in the
21 determination of liability of a claim that is assigned under this section
22 or necessary to assist in the collection of monies owed to the special
23 fund under this section, including collection against the cash,
24 securities, bond and other assets of the employer. These expenses may
25 include travel, discovery procedures and employing any third-party
26 processor, expert, consultant or professional, including an attorney,
27 auditor, examiner or actuary. The special fund shall reimburse the
28 administrative fund for all expenses incurred by the administrative fund
29 related to the processing and payment of claims assigned under this
30 section.

31 C. THE SPECIAL FUND IS THE SUCCESSOR IN INTEREST TO ALL EXCESS
32 INSURANCE POLICIES IN EFFECT AT THE TIME OF AN ASSIGNMENT UNDER SUBSECTION
33 A OF THIS SECTION THAT INSURE ANY PART OF THE SELF-INSURED EMPLOYER'S
34 FINANCIAL OBLIGATIONS UNDER THE WORKERS' COMPENSATION LAWS. THE SPECIAL
35 FUND'S RECOVERY RIGHTS UNDER THIS SUBSECTION ARE SUBJECT TO APPLICABLE
36 COVERAGE TERMS AND POLICY LIMITS IN THE EXCESS POLICY. THE EXCESS INSURER
37 SHALL MAKE PAYMENT DIRECTLY TO THE SPECIAL FUND FOR ALL COVERED AMOUNTS
38 SPENT UNDER THIS SECTION, INCLUDING ADMINISTRATIVE COSTS, NECESSARY
39 EXPENSES AND ATTORNEY FEES TO THE EXTENT COVERED BY THE EXCESS POLICY.
40 UNLESS RECOVERED FROM AN EXCESS INSURER, the special fund shall have a
41 claim against the employer for all monies that are spent or anticipated to
42 be spent under this section, including administrative costs, necessary
43 expenses and attorney fees. Any claim by the special fund shall be made
44 on the cash, securities or bond filed under section 23-961 or applicable
45 rules or on any other asset of the employer.

APPROVED BY THE GOVERNOR APRIL 11, 2019.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 11, 2019.