

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

# 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.