Senate Engrossed House Bill

workers' compensation; assigned risk plan

State of Arizona
House of Representatives
Fifty-seventh Legislature
First Regular Session
2025

CHAPTER 120

HOUSE BILL 2032

AN ACT

AMENDING SECTION 23-1091, ARIZONA REVISED STATUTES; RELATING TO WORKERS' COMPENSATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 23-1091, Arizona Revised Statutes, is amended to read:

23-1091. Assigned risk plan

A. An insurer may decline to issue a workers' compensation or occupational disease policy to an employer. An employer who is refused coverage by two or more insurers shall be placed in the assigned risk plan established by this section~~.~~ UNLESS ANY OF THE FOLLOWING FACTORS EXIST WHEN THE EMPLOYER SUBMITS AN APPLICATION FOR THE ASSIGNED RISK PLAN:

1. ON A CURRENT OR PREVIOUS WORKERS' COMPENSATION POLICY, THE EMPLOYER DOES EITHER OF THE FOLLOWING:

(a) KNOWINGLY DOES NOT MEET REASONABLE HEALTH AND SAFETY REQUIREMENTS OR AUDIT OR LOSS PREVENTION REQUIREMENTS.

(b) DOES NOT ALLOW ANY INSURANCE CARRIER OR ASSIGNED INSURANCE CARRIER REASONABLE ACCESS TO THE EMPLOYER'S RECORDS FOR AUDIT OR INSPECTION PURPOSES UNDER THE POLICY.

2. THE EMPLOYER HAS AN OUTSTANDING PREMIUM THAT IS DUE ON A WORKERS' COMPENSATION POLICY AND THAT IS NOT SUBJECT TO A BONA FIDE DISPUTE.

3. THE EMPLOYER OR THE EMPLOYER'S REPRESENTATIVE KNOWINGLY FAILS TO COMPLY WITH THE ASSIGNED RISK PLAN'S APPLICATION PROCEDURES OR KNOWINGLY MAKES A MATERIAL MISREPRESENTATION ON THE APPLICATION.

B. IF AN EMPLOYER IS PLACED IN THE ASSIGNED RISK PLAN AS ESTABLISHED BY THIS SECTION, THE EMPLOYER MAY BE REMOVED FROM THE ASSIGNED RISK PLAN SUBJECT TO SECTION 23-961.

~~B.~~ C. There shall be only one workers' compensation assigned risk plan in this state. The director of the department of insurance and financial institutions shall contract with a qualified party to be the assigned risk plan administrator.

~~C.~~ D. The administrator may charge all insurers transacting workers' compensation insurance in this state a reasonable fee to administer the assigned risk plan. Each insurer shall pay a share of the fee based on the insurer's share of the preceding calendar year's total net direct workers' compensation and occupational disease compensation insurance premiums written in this state.

~~D.~~ E. The assigned risk plan administrator shall develop a plan of operation and, on approval by the director of the department of insurance and financial institutions, shall issue a directive for the equitable apportioning of assigned risks among all the insurers. At any time, the director of the department of insurance and financial institutions may require the assigned risk plan administrator to amend the plan of operation. The plan shall include at least the following:

1. A method for the administrator to select one or more insurers transacting workers' compensation insurance in this state to act as servicing carriers. An administrator that is an insurer may act as its own servicing carrier. The administrator shall monitor the performance of

the servicing carriers and shall measure performance against the administrator's established standards. A servicing carrier shall:

(a) Provide coverage for the risks placed in the assigned risk plan.

(b) Pay claims.

(c) Provide safety management services.

(d) Perform other activities that are related to the preliminary and subsequent effectuation of the contract and that arise out of the contract, including paying commissions to any licensed property and casualty agent or broker in this state.

2. A method for apportioning the workers' compensation assigned risks among all insurers.

~~E.~~ F. Unless the director decides to use another method, the rates used to determine the premiums of risks in the assigned risk plan are the rates annually filed with the director of the department of insurance and financial institutions by the designated rating organization pursuant to section 20-357, subsection B, unless the director requires the use of rates from another rating organization, plus a uniform percentage increase that applies to all classifications, that is determined by the designated rating organization or, if the director directs, another rating organization and that is subject to approval by the director. The expected loss rates, ballast factors and other factors for use with the uniform experience rating plan as described in title 20, chapter 2, article 4 and filed with the director also apply to experience rated risks in the assigned risk plan.

~~F.~~ G. Rating classifications used in the assigned risk plan shall conform to the uniform classification plan. Subclassifications and rating rule deviations shall not be used in the assigned risk plan.

~~G.~~ H. All insurers participating in workers' compensation or occupational disease compensation insurance shall participate in the assigned risk plan.

~~H.~~ I. Distribution of assignments among insurers shall be made in proportion to each insurer's share of the preceding calendar year's total net direct workers' compensation and occupational disease compensation insurance premium written in this state, as far as practicable.

~~I.~~ J. An insurer that refuses to participate in the assigned risk plan shall not be authorized to write workers' compensation coverage in this state. If an insurer refuses to participate in the assigned risk plan after being authorized to write workers' compensation coverage in this state, the insurer's authorization shall be revoked. If an insurer withdraws from or is terminated from writing workers' compensation coverage in this state, the insurer remains responsible for all injuries sustained during the period of coverage stated in the policies of that insurer.

APPROVED BY THE GOVERNOR MAY 2, 2025.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 02, 2025.