

House Engrossed

FILED
KEN BENNETT
SECRETARY OF STATE

State of Arizona
House of Representatives
Fifty-first Legislature
Second Regular Session
2014

CHAPTER 26

HOUSE BILL 2094

AN ACT

AMENDING SECTION 23-1023, 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 23-1023, Arizona Revised Statutes, is amended to
3 read:

4 23-1023. Liability of third person to injured employee:
5 election of remedies

6 A. If an employee who is entitled to compensation under this chapter
7 is injured, ~~OR~~ killed or further aggravates a previously accepted industrial
8 injury by the negligence or wrong of another person not in the same employ,
9 the injured employee, or in event of death the injured employee's dependents,
10 may pursue the injured person's remedy against the other person.

11 B. If the employee who is entitled to compensation under this chapter
12 or the employee's dependents do not pursue a remedy pursuant to this section
13 against the other person by instituting an action within one year after the
14 cause of action accrues, or if after instituting the action, the employee or
15 the employee's dependents fail to fully prosecute the claim and the action is
16 dismissed, THE CLAIM AGAINST THE OTHER PERSON IS DEEMED ASSIGNED TO THE
17 INSURANCE CARRIER OR SELF-INSURED EMPLOYER AND all of the following apply:

18 1. The insurance carrier or self-insured employer may institute an
19 action against the other person.

20 2. Any dismissal that is entered for lack of prosecution of an action
21 instituted by the employee or the employee's dependents shall not prejudice
22 the right of the insurance carrier or self-insured employer to recover the
23 amount of benefits paid.

24 3. If the statute of limitations of the claim is one year after the
25 cause of action accrues, the insurance carrier or self-insured employer may
26 file the action prior to one year after the cause of action accrues.

27 4. The claim may be prosecuted or compromised by the insurance carrier
28 or the person liable for the self-insured employer or may be reassigned in
29 its entirety to the employee or the employee's dependents. After the
30 reassignment, the employee who is entitled to compensation, or the employee's
31 dependents, shall have the same rights to pursue the claim as if it had been
32 filed within the first year.

33 C. The employee or the employee's dependents shall provide the
34 insurance carrier or the self-insured employer written notice of the
35 intention to bring an action against a third party and shall provide to the
36 insurance carrier or self-insured employer timely and periodic notice of all
37 pleadings and rulings concerning the status of the pending action. In any
38 action instituted by the employee or the employee's dependents, the insurance
39 carrier or the self-insured employer shall have the right to intervene at any
40 time to protect the insurance carrier's or the self-insured employer's
41 interests.

42 D. If the employee proceeds against the other person, compensation and
43 medical, surgical and hospital benefits shall be paid as provided in this
44 chapter and the insurance carrier or other person liable to pay the claim
45 shall have a lien on the amount actually collectable from the other person to

1 the extent of such compensation and medical, surgical and hospital benefits
2 paid. This lien shall not be subject to a collection fee. The amount
3 actually collectable shall be the total recovery less the reasonable and
4 necessary expenses, including attorney fees, actually expended in securing
5 the recovery. In any action arising out of an aggravation of a previously
6 accepted industrial injury, the lien shall only apply to amounts expended for
7 compensation and treatment of the aggravation. The insurance carrier or
8 person shall contribute only the deficiency between the amount actually
9 collected and the compensation and medical, surgical and hospital benefits
10 provided or estimated by this chapter for the case. Compromise of any claim
11 by the employee or the employee's dependents at an amount less than the
12 compensation and medical, surgical and hospital benefits provided for shall
13 be made only with written approval of the insurance carrier or self-insured
14 employer liable to pay the claim.

15 E. For purposes of this section, the commission shall have the same
16 rights as an insurance carrier or self-insured employer.

APPROVED BY THE GOVERNOR APRIL 15, 2014.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 15, 2014.

Passed the House February 27, 2014

Passed the Senate April 9, 2014

by the following vote: 33 Ayes,

by the following vote: 17 Ayes,

22 Nays, 5 Not Voting

13 Nays, 0 Not Voting



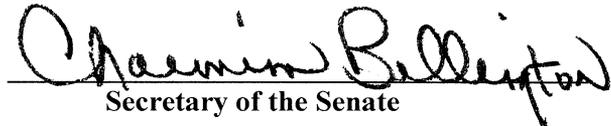
Speaker of the House



President of the Senate



Chief Clerk of the House



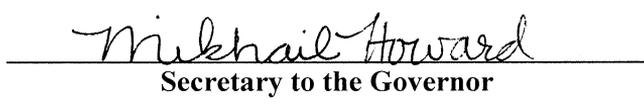
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

10 day of April, 2014

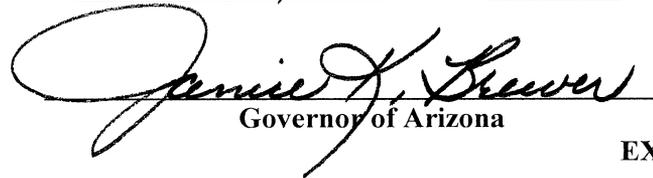
at 12:00 o'clock P M.


Secretary to the Governor

Approved this 15th day of

April

at 3:04 o'clock P M.

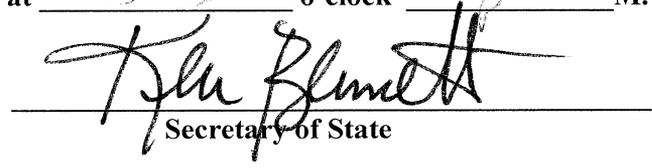

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 15th day of April, 2014

at 5:03 o'clock P M.


Secretary of State

H.B. 2094