

AB 227 (Chapter 635)

CALIFORNIA INSURANCE GUARANTEE ASSOCIATION (CIGA) CHANGES

1. CIGA BOND AUTHORITY THROUGH INFRASTRUCTURE BANK: Gov't Code sections 63010, Article 8 (commencing with new section 63049.6, and 63071). Provides that loan monies financed by Calif. Infrastructure and Economic Development Bank are available to CIGA for payment of cost of claims of insolvent insurers.

2. EXCLUDES 5814 & 5814.5 PENALTIES FOR DELAY FROM THE DEFINITION OF "COVERED CLAIMS" BY CIGA: Ins. Code sec. 1063.1(c)(8). Provides that CIGA is not responsible for paying 5814 and 5814.5 claims for unreasonable delay or claim refusal when penalties were in response to actions taken by insolvent insurance companies prior to administration by CIGA.

FRAUD

3. INCREASE IN FINE FOR COMMITTING FRAUD IN OBTAINING OR DENYING COMPENSATION: Ins. Code sec. 1871.4 (b). Increases the fine from \$50,000 to \$150,000 for making knowingly false or fraudulent statements for the purpose of obtaining or denying any compensation.

GROUP INSURANCE

4. GROUP INSURANCE FOR MANUFACTURING FACILITIES: New Ins. Code sec. 11656.6 (b)(8). Expands group insurance for manufacturing industry.

INSURANCE COMMISSIONER RESPONSIBILITIES

5. REQUIREMENT OF INSURANCE COMMISSIONER TO CONSIDER PROJECTED SAVINGS IN SETTING PURE PREMIUM ADVISORY RATES: New Ins. Code sec. 11735.1. Requires Insurance Commissioner to evaluate projected savings from bills passed in the 2003-04 session and include them in determination of advisory pure premium rates and that insurers' filed rates also reflect these savings.

6. REQUIRES INSURANCE COMMISSIONER TO ESTABLISH AND MAINTAIN ONLINE RATE COMPARISON GUIDE FOR TOP 50 WORKERS' COMPENSATION INSURANCE CARRIERS: New Ins. Code section 11742(a), (b) & (c). Expresses legislative finding that insolvencies have constricted the insurance market but that a central updated online information source comparing insurance rates would increase consumer power of employers buying workers' compensation coverage. Requires creation of online guide comparing rates and indicating effective dates of each rate.

7. REQUIRES COST SAVINGS DETERMINED BY THE WCIRB BE REFLECTED IN PREMIUM RATES FOR 2004 AND THAT CERTIFICATIONS BE POSTED ON THE INTERNET: New Ins. Code sec. 11742 (d). Requires WCIRB to determine cost savings of 2003 reform legislation and requires each insurer writing coverage to publicly certify that its filed rates reflect such cost savings.

SCIF STAFFING ISSUES

8. PROVIDES SCIF WITH EXEMPTIONS FROM HIRING FREEZES: New Ins. Code sec. 11873(c). Positions funded by SCIF are exempt from hiring freezes and staff cutbacks otherwise required by law.

FUNDING

9. USER FUNDING: Labor Code sec. 62.5. Provides for 100% user funding, specifies Legislative intent concerning priorities for funding including medical fraud reporting, communication of changes in medical fee schedules, clerical staffing and retention, and technology upgrades (electronic filing, calendaring, case management).

10. REQUIRES CHSWC STUDY ON REINSTITUTION OF INSURANCE RATE REGULATION: Uncodified Section 17 manifests the intent of the legislature to ensure fairness to workers and a predictable workers'

compensation market, and requires CHSWC to study the feasibility of reinstating the minimum rate law to regulate the workers' compensation market, to be phased in over a five-year period.

VOCATIONAL REHABILITATION

11. REPEAL OF VOCATIONAL REHABILITATION: L.C. sec 139.5. Repeals existing vocational rehabilitation statute [Article 2.6 (commencing with Section 4635) of Chapter 2 of Part 2 of Division 4 of the Labor Code] as part of a repeal of the vocational rehabilitation mandate.

12. SUPPLEMENTAL JOB DISPLACEMENT BENEFIT: New L.C. sec. 4658.5. Establishes a new supplemental job displacement benefit (SJDB) with savings from repeal of vocational rehabilitation. Provides that employees who do not return to work for their employer within 60 days of the end of TD period will receive a voucher of \$4,000 for permanent partial disability of less than 15%; \$6,000 for permanent partial disability between 15% and 25%; \$8,000 for permanent partial disability between 26% and 49%; and \$10,000 for permanent partial disability between 50% and 99%. The voucher must be used at state-approved or accredited schools for education-related retraining or skill enhancement, or both. The AD shall issue regulations governing the form of payment and other matters related to the proper administration of the benefit. Provides that up to 10 percent of SJDB can be used for counseling. Provides for employer notice to injured worker of availability of benefit. [NOTE: As the result of clerical error, new L.C. sec. 139.5 is identical to sec.4658.5.]

13. LIMITATION ON EMPLOYER'S LIABILITY FOR SUPPLEMENTAL JOB DISPLACEMENT: New L.C. sec. 4658.6. Provides that the employer will not be liable for the supplemental job displacement benefit if, within 30 days of the end of TD, it offers modified or alternative work, and the employee rejects or fails to accept the offer.

SUMMARY OF ADDITIONAL BILLS

1. SB 1007 (Speier) (Chapter 641): SPECIFIED MANUFACTURING FACILITIES AS COMMON TRADE OR BUSINESS. Ins. Code sec. 11556.6. Existing law authorizes an insurer to issue a workers' compensation policy insuring an organization or association of employers subject to specified conditions, including requirements that the organization or association file certain documents with the commissioner or a licensed workers' compensation rating organization relating to (1) the percentage of its membership engaged in a common trade or business, and (2) the naming in certain statements of members eligible for insurance. The definition of "common trade or business" is now expanded to include specified types of manufacturing facilities (establishments engaged in the mechanical, physical, or chemical transformation of materials, substances, or components into new products).

2. AB 149 (Cohn) (Chapter 831): ASBESTOSIS - FIREFIGHTERS. L.C. 5406.5. The one-year period from the date of death for commencing proceedings for workers' compensation benefits in the case of death from asbestosis is extended to include firefighters who die of asbestosis.

3. AB 1099 (Negrete McLeod) (Chapter 636): WORKERS' COMPENSATION INSURANCE FRAUD. Ins. Code secs. 1877.1, 1877.3, 1877.4, 1877.5. Includes the Employment Development Department as a government agency that is authorized to request and receive information regarding workers' compensation fraud. "Licensed rating organizations" (such as the WCIRB) are authorized to release information regarding workers' compensation fraud, as specified.

4. AB 1262 (Matthews) (Chapter 637): CERTIFICATION OF CLAIMS ADJUSTERS/BILL REVIEW. New Ins. Code sec. 11761. The Insurance Commissioner is to adopt regulations setting forth the minimum standards of training, experience, and skill for claims adjusters. Insurers must certify to the Insurance Commissioner that personnel employed to adjust WC claims or those employed for that purpose by a medical bill review company meets the minimum standards.

5. AB 1557 (Vargas) (Chapter 638): APPLICATION OF L.C. sec. 5814 TO UTILIZATION REVIEW. New L.C. sec. 4610.1 provides that periods of time reasonably required to conduct utilization review shall not be considered an unreasonable delay in the payment of compensation for purposes of determining "penalty" issues under L.C. sec. 5814. However, an unreasonable delay in the completion of utilization review may result in a penalty.

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