

## Assembly Bill No. 812

### CHAPTER 615

An act to add Section 11760.1 to the Insurance Code, relating to workers' compensation audits.

[Approved by Governor October 13, 2007. Filed with  
Secretary of State October 13, 2007.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 812, Hernandez. Workers' compensation: audits.

Existing law provides that workers' compensation insurers generally perform a payroll verification audit to compare the actual premium to the estimated premium. This information is generally supplied by the insured employer.

This bill would provide that if an employer fails to provide for access by the insurer or its authorized representative to its records, to enable the insurer to perform an audit, the employer shall be liable to pay to the insurer a total premium for the policy equal to 3 times the insurer's then-current estimate of the annual premium on the expiration date of the policy. The employer shall also be liable for costs, as specified.

This bill would require the insurer to have and follow regular and reasonable rules and procedures for access to records, as specified.

This bill would specify the procedures to be followed if the employer fails to provide access as required, and makes other changes.

*The people of the State of California do enact as follows:*

SECTION 1. Section 11760.1 is added to the Insurance Code, to read:

11760.1. (a) If an employer fails to provide for access by the insurer or its authorized representative to its records, to enable the insurer to perform an audit to determine the remuneration earned by the employer's employees and by any of its uninsured subcontractors and the employees of any of its uninsured subcontractors during the policy period, the employer shall be liable to pay to the insurer a total premium for the policy equal to three times the insurer's then-current estimate of the annual premium on the expiration date of the policy. The employer shall also be liable, in addition to the premium, for costs incurred by the insurer in its attempts to perform an audit, after the insured has failed upon the insurer's third request during at least a 90-day period to provide access, and the insured has provided no compelling business reason for the failure. This section shall only apply if the insurer elects to comply with the conditions set forth in subdivision (d).

(b) “Access” shall mean access at any time during regular business hours during the policy period and within three years after the policy period ends. “Access” may also include any other time mutually agreed upon by the employer and insurer.

(c) The insurer shall have and follow regular and reasonable rules and procedures to notify employers of their duty to provide for access to records, and to contact employers to make appointments during regular business hours for that purpose.

(d) Upon the employer’s failure to provide access after the insurer’s third request during at least a 90-day period, the insurer may notify the employer through its mailing of a certified, return-receipt, document of the increased premium and the total amount of the costs incurred by the insurer for its attempts to perform an audit as described under subdivision (a). Upon the expiration of 30 days after the delivery of the notice, collection by the insurer of the amount of premium and costs described under subdivision (a), less all premiums previously paid by the employer for the policy, shall be fully enforceable and executable.

(e) If the employer provides for access to its records after having received the notice described in subdivision (d), and if the insurer then succeeds in performing the audit to its satisfaction, the insurer shall revise the total premium and costs payable for the policy by the employer to reflect the results of its audit.