



93RD GENERAL ASSEMBLY
State of Illinois
2003 and 2004

Introduced 02/04/04, by Jay C. Hoffman

SYNOPSIS AS INTRODUCED:

215 ILCS 5/456

from Ch. 73, par. 1065.3

Amends the Illinois Insurance Code. Provides that with respect to employers correctly classified within the construction industry, the amount charged to the insured for workers' compensation and employers' liability insurance shall be based upon hours worked by employees in specific job categories or classifications, not the wages or salaries paid to the employees. Effective immediately.

LRB093 17775 SAS 43455 b

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning insurance.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Insurance Code is amended by
5 changing Section 456 as follows:

6 (215 ILCS 5/456) (from Ch. 73, par. 1065.3)
7 Sec. 456. Making of rates.

8 (1) All rates shall be made in accordance with the
9 following provisions:

10 (a) Due consideration shall be given to past and
11 prospective loss experience within and outside this State,
12 to catastrophe hazards, if any, to a reasonable margin for
13 profit and contingencies, to dividends, savings, or
14 unabsorbed premium deposits allowed or returned by
15 companies to their policyholders, members or subscribers,
16 to past and prospective expenses both countrywide and those
17 specially applicable to this State, to underwriting
18 practice and judgment, and to all other relevant factors
19 within and outside this State. †

20 (b) The systems of expense provisions included in the
21 rates for use by any company or group of companies may
22 differ from those of other companies or groups of companies
23 to reflect the requirements of the operating methods of the
24 ~~any such~~ company or group with respect to any kind of
25 insurance, or with respect to any subdivision or
26 combination thereof for which subdivision or combination
27 separate expense provisions are applicable. †

28 (c) Risks may be grouped by classifications for the
29 establishment of rates and minimum premiums.
30 Classification rates may be modified to produce rates for
31 individual risks in accordance with rating plans that ~~which~~
32 measure variation in hazards or expense provisions, or

1 both. ~~The Such~~ rating plans may measure any differences
2 among risks that have a probable effect upon losses or
3 expenses. ~~+~~

4 (d) Rates shall not be excessive, inadequate, or
5 unfairly discriminatory.

6 (i) A rate in a competitive market is not
7 excessive. A rate in a noncompetitive market is
8 excessive if it is likely to produce a long run profit
9 that is unreasonably high for the insurance provided or
10 if expenses are unreasonably high in relation to the
11 services rendered.

12 (ii) A rate is not inadequate unless ~~the such~~ rate
13 is clearly insufficient to sustain projected losses
14 and expenses in the class of business to which it
15 applies and the use of ~~the such~~ rate has or, if
16 continued, will have the effect of substantially
17 lessening competition or the tendency to create
18 monopoly in any market.

19 (iii) Unfair discrimination exists if, after
20 allowing for practical limitations, price
21 differentials fail to reflect equitably the
22 differences in expected losses and expenses. A rate is
23 not unfairly discriminatory because different premiums
24 result for policyholders with like exposures but
25 different expenses, or like expenses but different
26 loss exposures, so long as the rate reflects the
27 differences with reasonable accuracy.

28 (e) The rating plan shall contain a mandatory offer of
29 a deductible applicable only to the medical benefit under
30 the Workers' Compensation Act. Such deductible offer shall
31 be in a minimum amount of at least \$1,000 per accident.

32 (f) Any rating plan or program shall include a rule
33 permitting 2 or more employers with similar risk
34 characteristics, who participate in a loss prevention
35 program or safety group, to pool their premium and loss
36 experience in determining their rate or premium for such

1 participation in the program.

2 (g) With respect to an employer correctly classified
3 within the construction industry, the amount charged for
4 workers' compensation and employers' liability insurance
5 insuring the employees employed by an employer in any job
6 category or classification shall be based upon hours worked
7 by employees in that job category or classification and
8 shall not be based upon the wages or salaries paid to the
9 employees.

10 (2) Except to the extent necessary to meet the provisions
11 of subdivision (d) of subsection (1) of this Section,
12 uniformity among companies in any matters within the scope of
13 this Section is neither required nor prohibited.

14 (Source: P.A. 82-939.)

15 Section 99. Effective date. This Act takes effect upon
16 becoming law.