



## 99TH GENERAL ASSEMBLY

### State of Illinois

2015 and 2016

**HB4042**

by Rep. Brandon W. Phelps

#### 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. Makes technical and grammatical changes.

LRB099 07689 MLM 27822 b

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

1 ~~any such~~ company or group with respect to any kind of  
2 insurance, or with respect to any subdivision or  
3 combination thereof for which subdivision or combination  
4 separate expense provisions are applicable.†

5 (c) Risks may be grouped by classifications for the  
6 establishment of rates and minimum premiums.  
7 Classification rates may be modified to produce rates for  
8 individual risks in accordance with rating plans that ~~which~~  
9 measure variation in hazards or expense provisions, or  
10 both. The ~~Such~~ rating plans may measure any differences  
11 among risks that have a probable effect upon losses or  
12 expenses.†

13 (d) Rates shall not be excessive, inadequate, or  
14 unfairly discriminatory.

15 (i) A rate in a competitive market is not  
16 excessive. A rate in a noncompetitive market is  
17 excessive if it is likely to produce a long run profit  
18 that is unreasonably high for the insurance provided or  
19 if expenses are unreasonably high in relation to the  
20 services rendered.

21 (ii) A rate is not inadequate unless the ~~such~~ rate  
22 is clearly insufficient to sustain projected losses  
23 and expenses in the class of business to which it  
24 applies and the use of the ~~such~~ rate has or, if  
25 continued, will have the effect of substantially  
26 lessening competition or the tendency to create

1 monopoly in any market.

2 (iii) Unfair discrimination exists if, after  
3 allowing for practical limitations, price  
4 differentials fail to reflect equitably the  
5 differences in expected losses and expenses. A rate is  
6 not unfairly discriminatory because different premiums  
7 result for policyholders with like exposures but  
8 different expenses, or like expenses but different  
9 loss exposures, so long as the rate reflects the  
10 differences with reasonable accuracy.

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

15 (f) Any rating plan or program shall include a rule  
16 permitting 2 or more employers with similar risk  
17 characteristics, who participate in a loss prevention  
18 program or safety group, to pool their premium and loss  
19 experience in determining their rate or premium for such  
20 participation in the program.

21 (g) Beginning on January 1, 2017, with respect to an  
22 employer correctly classified within the construction  
23 industry, the amount charged for workers' compensation and  
24 employers' liability insurance insuring the employees  
25 employed by an employer in any job category or  
26 classification shall be based upon hours worked by

1       employees in that job category or classification and shall  
2       not be based upon the wages or salaries paid to the  
3       employees.

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

8       (Source: P.A. 82-939.)