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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 1754 Session of  
2013

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INTRODUCED BY MUSTIO, FRANKEL, DUNBAR, ROCK, F. KELLER, MILLARD,  
C. HARRIS, CLYMER, COHEN, GINGRICH, R. MILLER, EVERETT,  
TOBASH AND TURZAI, OCTOBER 11, 2013

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REFERRED TO COMMITTEE ON LABOR AND INDUSTRY, OCTOBER 11, 2013

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AN ACT

1 Amending the act of June 2, 1915 (P.L.736, No.338), entitled, as  
2 reenacted and amended, "An act defining the liability of an  
3 employer to pay damages for injuries received by an employe  
4 in the course of employment; establishing an elective  
5 schedule of compensation; providing procedure for the  
6 determination of liability and compensation thereunder; and  
7 prescribing penalties," in insurance rates, further providing  
8 for rating process.

9 The General Assembly of the Commonwealth of Pennsylvania  
10 hereby enacts as follows:

11 Section 1. Section 707 of the act of June 2, 1915 (P.L.736,  
12 No.338), known as the Workers' Compensation Act, reenacted and  
13 amended June 21, 1939 (P.L.520, No.281), amended or added July  
14 2, 1993 (P.L.190, No.44) and June 24, 1996 (P.L.350, No.57), is  
15 amended to read:

16 Section 707. (a) Each workers' compensation insurer shall  
17 be a member of a rating organization. Each workers' compensation  
18 insurer shall adhere to the policy forms filed by the rating  
19 organization.

20 (b) (1) Every workers' compensation insurer shall adhere to

1 the uniform classification system and uniform experience rating  
2 plan filed with the commissioner by the rating organization to  
3 which it belongs: Provided, That the system and plan have been  
4 approved by the commissioner as part of the approval of the  
5 rating organization's most recent filing for the provision for  
6 claim payment.

7 (2) (i) Subject to the conditions of this paragraph, an  
8 insurer may develop subclassifications of the uniform  
9 classification system upon which a rate may be made.

10 (ii) Any subclassification developed under subparagraph (i)  
11 shall be filed with the rating organization and the commissioner  
12 thirty (30) days prior to its use.

13 (iii) If the insurer fails to demonstrate that the data  
14 produced under a subclassification can be reported in a manner  
15 consistent with the rating organization's uniform statistical  
16 plan and classification system, the commissioner shall  
17 disapprove the subclassification.

18 (c) Every workers' compensation insurer shall record and  
19 report its workers' compensation experience to a rating  
20 organization as set forth in the rating organization's uniform  
21 statistical plan approved by the commissioner.

22 (d) (1) Subject to the approval of the commissioner, a  
23 rating organization shall develop and file rules reasonably  
24 related to the recording and reporting of data pursuant to the  
25 uniform statistical plan, the uniform experience rating plan and  
26 the uniform classification system.

27 (2) Every workers' compensation insurer shall adhere to the  
28 approved rules and experience rating plan in writing and  
29 reporting its business.

30 (3) An insurer shall not agree with any other insurer or

1 with a rating organization to adhere to rules which are not  
2 reasonably related to the recording and reporting of data  
3 pursuant to the uniform classification system or the uniform  
4 statistical plan.

5 (e) The experience rating plan shall have as a basis:

6 (1) reasonable eligibility standards;

7 (2) adequate incentives for loss prevention;

8 (3) sufficient premium differential so as to encourage  
9 safety; [and]

10 (4) predictive accuracy[.];

11 (5) no limit to the number of years that experience ratings  
12 can be revised because:

13 (i) loss value was included or excluded through mistake or  
14 other error of judgment;

15 (ii) a claim or part of a claim is noncompensable;

16 (iii) a claimant or carrier has recovered in an action  
17 against a third party; or

18 (iv) of other criteria established by rating organization;  
19 and

20 (6) a requirement that the insurer reimburse the employer  
21 for any additional premium resulting from a revision of the  
22 experience rating.

23 (f) (1) The uniform experience rating plan shall be the  
24 exclusive means of providing prospective premium adjustment  
25 based upon measurement of the loss producing characteristics of  
26 an individual insured.

27 (2) An insurer may file a rating plan that provides for  
28 retrospective premium adjustments based upon an insured's past  
29 experience.

30 (g) The commissioner shall promulgate a plan by which all

1 insurers writing workers' compensation insurance in this  
2 Commonwealth shall grant premium discounts or assess premium  
3 surcharges to employers who do not qualify for the uniform  
4 experience rating plan in accordance with the following:

5 (1) An employer who has not experienced a compensable  
6 employe lost-time injury during the most recent two-year period  
7 for which statistics are available shall receive a discount of  
8 five per centum on the amount of the workers' compensation  
9 insurance premium.

10 (2) An employer who has experienced two or more compensable  
11 employe lost-time injuries during the most recent two-year  
12 period for which statistics are available shall be assessed a  
13 surcharge of five per centum on the amount of the workers'  
14 compensation insurance premium.

15 (3) The premium discounts or premium surcharges established  
16 under this section shall be made on an annual basis but shall  
17 not be cumulative: Provided, however, That an employer is  
18 entitled to receive the premium discount provided by this  
19 section in addition to any other reductions or deviations in the  
20 insurance premiums available to all other nonexperienced-rated  
21 employers in the same classification. For any annual workers'  
22 compensation premium, an employer shall not receive a premium  
23 discount of more than five per centum and shall not be required  
24 to pay a surcharge of more than five per centum.

25 (4) Insurers writing workers' compensation insurance in this  
26 Commonwealth may file a schedule rating plan based upon defined  
27 risk characteristics. Prior approval of this plan by the  
28 commissioner is required.

29 For purposes of this clause, "employer" shall include a  
30 municipality or a municipal pool.

1       Section 2. The amendment of section 707 of the act shall  
2 apply to experience rating disputes initially initiated on or  
3 after the effective date of this section.

4       Section 3. This act shall take effect in 30 days.