

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 1984 Session of
1985

INTRODUCED BY COHEN, IRVIS, MANDERINO, BURNS, FEE, F. E. TAYLOR, DOMBROWSKI, DURHAM, DeWEESE, RICHARDSON, JAROLIN, KUKOVICH, PISTELLA, FREEMAN, HARPER, DeLUCA, KASUNIC, CALTAGIRONE, DALEY, DEAL, LESCOVITZ, VEON, GALLAGHER, CAPPABIANCA, BELARDI, PETRARCA, KOSINSKI, OLIVER, RYBAK, MRKONIC, CAWLEY, WOZNIAK, McCALL, MICHLOVIC, WAMBACH, LAUGHLIN, JOSEPHS, TIGUE, PETRONE, PRESTON, RIEGER, STEWART, MORRIS, LEVIN, ACOSTA, EVANS, TRELLO, CORDISCO, COWELL, BELFANTI, TRUMAN, ARTY, COLAFELLA, O'DONNELL, FATTAH, PIEVSKY, GRUITZA, CARN, HOWLETT, MAIALE, SALOOM, LINTON, GEORGE, VAN HORNE, ROEBUCK, BARBER AND WIGGINS, DECEMBER 11, 1985

REFERRED TO COMMITTEE ON LABOR RELATIONS, DECEMBER 11, 1985

AN ACT

1 Amending the act of May 17, 1921 (P.L.682, No.284), entitled "An
2 act relating to insurance; amending, revising, and
3 consolidating the law providing for the incorporation of
4 insurance companies, and the regulation, supervision, and
5 protection of home and foreign insurance companies, Lloyds
6 associations, reciprocal and inter-insurance exchanges, and
7 fire insurance rating bureaus, and the regulation and
8 supervision of insurance carried by such companies,
9 associations, and exchanges, including insurance carried by
10 the State Workmen's Insurance Fund; providing penalties; and
11 repealing existing laws," further providing for the
12 classification of risks, underwriting rules, premium rates,
13 and schedule and merit rating plans; and providing for
14 certain additional coverage in workmen's compensation
15 insurance and for the computation of workmen's compensation
16 premium rates.

17 The General Assembly of the Commonwealth of Pennsylvania
18 hereby enacts as follows:

19 Section 1. Section 654 of the act of May 17, 1921 (P.L.682,
20 No.284), known as The Insurance Company Law of 1921, amended

1 July 1, 1980 (P.L.336, No.84), is amended to read:

2 Section 654. Classification of Risks; Underwriting Rules;
3 Premium Rates; and Schedule and Merit Rating Plans.--(a) The
4 classification of risks, underwriting rules, premium rates, and
5 schedule or merit rating plans for insurance of employers and
6 employes under "The Workmen's Compensation Act of nineteen
7 hundred and fifteen," and acts amendatory thereof or
8 supplementary thereto, and for insurance under "The Pennsylvania
9 Occupational Disease Act of nineteen hundred and thirty-nine,"
10 and acts amendatory thereof or supplementary thereto, and for
11 insurance with respect to the Commonwealth of Pennsylvania as to
12 liability under "The United States Longshoremen's and Harbor
13 Workers' Compensation Act" of one thousand nine hundred twenty-
14 seven, and acts amendatory thereof or supplementary thereto,
15 written as a part of a workmen's compensation and employers'
16 liability policy, shall be proposed annually by [one or more
17 rating bureaus, said rating bureau or bureaus to be situate
18 within the Commonwealth of Pennsylvania, subject to supervision
19 and to examination by the Insurance Commissioner and approved by
20 the Insurance Commissioner as adequately equipped to compile
21 rates on an equitable and impartial basis. Such schedule or
22 merit rating plans shall be applied only by the approved rating
23 bureau or bureaus, and, in the preparation of schedules, no
24 employer shall be discriminated against or penalized because of
25 physical impairment of any employe or because of the number of
26 dependents of any employe.]every insurer writing such insurance.
27 An insurer may satisfy its obligation to make such filings by
28 becoming a member of, or a submember to, a licensed rating
29 bureau which makes such filings and by authorizing the Insurance
30 Commissioner to accept such filings on its behalf. However,

nothing in this act shall be construed as requiring an insurer to become a member of or a subscriber to a rating bureau.

(b) The system of classification of risks, underwriting rules, premium rates and schedule or merit rating plans for insurance of employers and employees under such acts, shall be filed with, and shall be subject to review by the Insurance Commissioner, and the Insurance Commissioner shall by order modify, amend or approve the same. Any person, corporate or otherwise, aggrieved by such order, classification, rule, rate or schedule issued by the Insurance Commissioner may obtain a review thereof before the Insurance Commissioner.

(b.1) To support its annual proposal, the insurer or rating bureau shall provide the following information, in a form and manner prescribed by the Commissioner:

(1) Actual loss and expense experiences within this Commonwealth for the most recent three (3) year period for which the information is available.

(2) Investment income earned or realized by insurers from their unearned premium, loss and expense reserve funds generated from the sale of workmen's compensation insurance within this Commonwealth.

(3) Separate identification of incurred but not reported losses, and the basis for determining this factor.

(4) Separate identification of all claims for which amounts in excess of fifty thousand dollars (\$50,000) have been reserved, and the basis for determining the amount of the reservation.

(5) Prospective loss and expense experiences within this Commonwealth.

(6) Any other information which the Commissioner deems

1 necessary to arrive at the determinations required by this
2 section.

3 (c) The assignment by an approved rating bureau of any
4 individual risk to a particular classification in accordance
5 with the particular system of classification of risks and
6 underwriting rules approved by the Insurance Commissioner may be
7 appealed by any person, corporate or otherwise, aggrieved by
8 such assignment before the assigning insurer or bureau in
9 accordance with procedures of the insurer or bureau approved by
10 the Insurance Commissioner and, if still aggrieved by such
11 reviewed assignment, such person may obtain a further review
12 thereof by filing an appeal with the Insurance Commissioner
13 within thirty days of the mailing date of the final decision of
14 the bureau. The Insurance Commissioner shall hold a hearing upon
15 not less than ten days written notice to the applicant and to
16 the insurer or rating bureau which made such classification, and
17 shall issue an order modifying, amending or approving the
18 placement of the individual risk within the particular
19 classification as the result of that hearing. Any order made by
20 the Insurance Commissioner in accordance with this paragraph
21 shall be appealable to the Commonwealth Court in accordance with
22 Title 42 of the Pennsylvania Consolidated Statutes (relating to
23 judiciary and judicial procedure).

24 (d) No risk classification system, underwriting rule,
25 premium rate, or schedule or merit rating plan shall take effect
26 without the consent of the Insurance Commissioner, and he may
27 withdraw his approval whenever, in his judgment, the same is
28 inadequate or discriminates unfairly between risks of
29 essentially the same hazard.

30 (e) Neither the State Workmen's Insurance Fund, nor any

1 insurance corporation, mutual association, or company, shall
2 issue, renew, or carry any policy or contract of insurance
3 against such liability under such acts, except in accordance
4 with the classifications, underwriting rules, premium rates, and
5 schedule or merit rating plans, proposed by the rating bureau or
6 bureaus aforesaid for the risk insured and as modified, amended
7 or approved by the Insurance Commissioner for such insurer.

8 (f) Notwithstanding any other provisions of this section,
9 upon the written consent of the insured stating his reasons
10 therefor, filed with and approved by the Insurance Commissioner,
11 a rate in excess of that determined in accordance with the other
12 provisions of this section may be used on any specific risk.

13 (g) A complete copy of every policy or a true copy of the
14 substantive provisions of any policy or contract of insurance
15 against such liability under such acts, and a true copy of every
16 endorsement upon any such policy and of every agreement
17 pertaining thereto, shall be filed with the [rating bureau or
18 bureaus aforesaid]Insurance Commissioner within a reasonable
19 time after the effective date of any such policy, endorsement,
20 contract or agreement.

21 Section 2. The act is amended by adding sections to read:

22 Section 654.1. Certain provision required.--All insurers of
23 liability under the act of June 2, 1915 (P.L.736, No.338), known
24 as The Pennsylvania Workmen's Compensation Act, shall be
25 required to provide the coverage of surgical and medical
26 services, payment of medicine and supplies, hospital treatment
27 services and supplies, and orthopedic appliances and
28 prosthetics, mandated by said act, through a hospital plan
29 corporation certified pursuant to 40 Pa.C.S. § 6102 (relating to
30 certification of hospital plan corporations) and a professional

1 health service plan corporation certified pursuant to 40 Pa.C.S.
2 § 6304 (relating to certification of professional health service
3 corporations), unless it can demonstrate to the approval of the
4 Insurance Commissioner that it can and will provide such medical
5 coverage more economically through another means.

6 Section 656. Premium Rates.--(a) Notwithstanding any
7 provision of this act, the premium rates for workmen's
8 compensation insurance for the construction industry shall be
9 computed on the number of worker hours for each manual rate
10 classification, instead of a percentage of the employer's
11 payroll, and the premium actually charged shall be a fixed sum
12 per hour worked.

13 (b) As used in this section, "construction industry" shall
14 include any activity in connection with the erection,
15 alteration, repair, replacement, renovation, installation or
16 demolition of any building, highway, bridge or structure.

17 Section 3. This act shall take effect in 60 days.