

2014 -- H 8322

=====
LC005937
=====

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2014

—————
A N A C T

RELATING TO INSURANCE -- WORKERS' COMPENSATION INSURANCE FUND

Introduced By: Representatives Lima, Silva, Melo, and Costantino

Date Introduced: June 12, 2014

Referred To: House Labor

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 11 of Chapter 410 of the 2003 Public Laws as amended entitled
2 "An Act Relating To Insurance – Workers' Compensation Insurance Fund", is hereby further
3 amended to read as follows:

4 Section 11. Insurance coverage program. – (a) Provision of workers' compensation
5 coverage. Subject to the limitations set forth in this act, the fund shall provide workers'
6 compensation insurance against liabilities arising under title 28 for any employer that tenders the
7 necessary premium.

8 (b) Applications; provisions of coverage.

9 (1) Policy applications. -- Applicants may apply for coverage by the fund in good faith,
10 either directly or through an insurance producer licensed by the state of Rhode Island to procure
11 workers' compensation insurance according to rules adopted by the board under section 16.

12 (2) Denial, cancellation, and nonrenewal. – The nonpayment of premium for current or
13 prior policies issued by the fund to the applicant, or to another entity for which the fund deems
14 the applicant to be a successor in interest, may be a basis for the fund to deny, not renew or
15 terminate coverage. The failure or refusal by an applicant or insured to fully and accurately
16 disclose to the fund information concerning the applicant's or insured's ownership, change of
17 ownership, operations, or payroll, including allocation of payroll among state and federal
18 compensation programs, classification of payroll, and any other information determined by the
19 fund to be important in determining proper rates shall be sufficient grounds for the fund to deny

1 an application or to not renew or cancel an existing policy or to assess a premium surcharge
2 against the insured pursuant to subsection (d). The failure or refusal by any insured or applicant to
3 comply with the fund's safety requirements or to permit premises inspections to the sole
4 satisfaction of the fund shall be sufficient grounds for having its workers' compensation
5 insurance coverage surcharged, not renewed, or cancelled, or an application for the coverage
6 denied.

7 (3) Appeal to director. – Any determination of the fund with respect to the denial,
8 cancellation, or nonrenewal of any workers' compensation insurance policy against liabilities
9 arising under title 28, with the exception of cancellation for nonpayment of premium, may be
10 appealed to the director of the department of business regulation, in writing, within thirty (30)
11 days of notice of this action. If the director determines that the fund has unreasonably denied,
12 cancelled, or failed to renew any workers' compensation insurance policy, the fund shall in good
13 faith reconsider issuing, reinstating, or renewing the workers' compensation insurance policy. If
14 the fund has not issued, reinstated, or renewed the workers' compensation insurance policy within
15 thirty (30) days of a determination of the director, the applicant or insured may appeal the denial,
16 cancellation, or failure to renew by the fund to the superior court for Providence County.

17 (c) Exemptions.

18 (1) Except as provided in subsection (d), the fund shall be subject to rate regulation under
19 chapter 7.1 of title 27.

20 (2) Notwithstanding the provisions of this section, if, at any time, the director finds that a
21 rate or filing of the fund is unjust, unreasonable, inadequate, excessive, or unfairly discriminatory,
22 he or she shall, after a hearing held upon not less than ten (10) days written notice, specifying the
23 matters to be considered at that hearing, issue an order specifying in what respects he or she finds
24 that the rate or filing is unjust, unreasonable, inadequate, excessive, or unfairly discriminatory
25 and stating when within a reasonable period after this the rate shall no longer be used or the filing
26 shall be deemed no longer effective. That order shall not affect any contract or policy made or
27 issued prior to the expiration of the period set forth in the order. If the director finds that an unfair
28 discrimination exists in the application of a rate or filing to an individual applicant or insured, the
29 director may, after a hearing held on similar notice to the fund, issue an order that the
30 discrimination be removed.

31 (d) Rate regulation.

32 (1) When a filing is not accompanied by the information upon which the fund supports
33 that filing, and the director does not have sufficient information to determine whether the filing
34 meets the requirements of applicable law, the director may require the fund to furnish the

1 information upon which it supports the filing. The information furnished in support of a filing
2 may include: (i) the experience or judgment of the fund, (ii) its interpretation of any statistical
3 data it relies upon, (iii) the experience of other insurers or rating organizations, or (iv) any other
4 relevant factors.

5 (2) Notwithstanding any law to the contrary, the fund and any workers' compensation
6 insurance policyholder may mutually consent to modify the rates for that policyholder's workers'
7 compensation insurance policy, provided the fund files notice of the modification with the
8 director of the department of business regulation.

9 ~~(3) Notwithstanding any law to the contrary, the fund may establish and apply a premium~~
10 ~~surcharges protocol. The protocol shall provide for higher premium and surcharge payments by~~
11 ~~insured who present higher than normal risks within a class, including the ability of the fund to~~
12 ~~assess from time to time a premium surcharge of up to three (3) times its applicable premium rate,~~
13 ~~as it deems appropriate to further the public purposes set forth in this act. The surcharge may be~~
14 ~~payable, at the option of the fund, upon assessment, over the policy year, or upon renewal. Any~~
15 ~~premium surcharge assessed by the fund may be appealed to the director of the department of~~
16 ~~business regulation within twenty (20) days of notice of the surcharge, and the director may~~
17 ~~modify or rescind the surcharge if the director determines that the surcharge is unjust,~~
18 ~~unreasonable, inadequate, excessive or unfairly discriminatory.~~

19 ~~(4)~~(3) Notwithstanding any other provisions of law, immediately upon May 18, 1992, the
20 fund may issue workers' compensation insurance policies at an initial rate not in excess of the
21 rates then in effect for residual market workers' compensation insurance coverage offered by any
22 other insurers within the state of Rhode Island, subject to the discretion of the fund to apply
23 discounts ~~and surcharge multipliers of up to three (3) times the premiums that would otherwise be~~
24 ~~applicable under the rates, with the premium surcharge to be payable as provided in subdivision~~
25 ~~(4)(3)~~. The fund may continue to issue workers' compensation insurance coverage at the initial
26 rates until the effectiveness of any revised rates filed pursuant to subdivision (d)(1).

27 SECTION 2. Section 27-7.1-4.1 of the General Laws in Chapter 27-7.1 entitled
28 "Workers' Compensation Insurance" is hereby amended to read as follows:

29 **27-7.1-4.1. Standards for approval of rates.** -- The director shall apply the following
30 standards in making rates:

31 (1) Rates shall not be excessive, inadequate, or unfairly discriminatory.

32 (2) Due consideration shall be given to: (i) past and prospective loss experience within
33 and outside the state; (ii) a reasonable margin for profits and contingencies; (iii) dividends,
34 savings, or unabsorbed premium deposits allowed or returned by insurers to their policyholders,

1 members, or subscribers; (iv) past and prospective expenses both countrywide and those
2 specifically applicable to this state; (v) provisions for special assessments; and (vi) all other
3 relevant factors within and outside this state. In determining the reasonableness of the profit,
4 consideration shall be given to investment income.

5 (3) Risks may be grouped by classifications for the establishment of rates and minimum
6 premiums. Classification rates may be modified to produce rates for individual risks in
7 accordance with rating plans that establish standards for measuring variations in hazards or
8 expense provisions, or both. These standards may measure any differences among risks that can
9 be demonstrated to have a probable effect upon losses or expenses.

10 (4) Due consideration shall be given to the risk classifications established/authorized by
11 this chapter and under no circumstances shall a low hazard class employer be subject to a high
12 hazard rate of insurance due to the place of employment and not the work performed.

13 SECTION 3. This act shall take effect upon passage.

=====
LC005937
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO INSURANCE -- WORKERS' COMPENSATION INSURANCE FUND

1 This act would amend the Public Law eliminating the workers' compensation premium
2 surcharge of up to three (3) times the appreciable rate for workers' compensation insurance
3 provided to certain high-risk employers and would amend the general laws to require separate
4 classes of insurance based on the workers' duties and not the place of employment.

5 This act would take effect upon passage.

=====
LC005937
=====