



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

SB3826

Introduced 2/10/2012, by Sen. Kwame Raoul

SYNOPSIS AS INTRODUCED:

215 ILCS 5/457	from Ch. 73, par. 1065.4
215 ILCS 5/458	from Ch. 73, par. 1065.5
215 ILCS 5/459	from Ch. 73, par. 1065.6
215 ILCS 5/459a new	
215 ILCS 5/461	from Ch. 73, par. 1065.8
215 ILCS 5/462	from Ch. 73, par. 1065.9
215 ILCS 5/463	from Ch. 73, par. 1065.10

Amends the Illinois Insurance Code in the Article concerning workers' compensation and employer's liability insurance rates. Creates the Illinois Compensation Rating Bureau as a quasi-governmental entity. In the provisions concerning rate filings, disapproval of filings, appeal by minority, information that is to be furnished to insureds and hearings and appeals of insureds, and advisory organizations, replaces references of licensed rating organizations with that of the Illinois Compensation Rating Bureau. Provides that the Director of Insurance shall have oversight over the Bureau only as established by law. Provides that every insurer that writes, amends, delivers, issues, or renews any policy of insurance specified under the Article concerning workers' compensation and employer's liability insurance rates has membership in the Bureau. Sets forth the purposes of the Bureau. Provides that the Bureau shall be governed by the Rating Committee. Provides that the Rating Committee shall establish bylaws for the operation of the Bureau which, with amendments thereto, shall be filed with and approved by the Director before they are effective. Deletes certain provisions concerning filings and cooperation among rating organizations and sets forth provisions concerning membership, services, and the furnishing of information.

LRB097 19819 RPM 65093 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

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 Sections 457, 458, 459, 461, 462, and 463 and by
6 adding Section 459a as follows:

7 (215 ILCS 5/457) (from Ch. 73, par. 1065.4)

8 Sec. 457. Rate filings.

9 (1) Beginning January 1, 1983, every company shall file
10 with the Director every manual of classifications, every manual
11 of rules and rates, every rating plan and every modification of
12 the foregoing which it intends to use. Such filings shall be
13 made not later than 30 days after they become effective. A
14 company may satisfy its obligation to make such filings by
15 adopting the filing of the Illinois Compensation Rating Bureau
16 ~~a licensed rating organization~~ of which it is a member or
17 subscriber, filed pursuant to subsection (2) of this Section,
18 in total or by notifying the Director in what respects it
19 intends to deviate from such filing. Any company adopting a
20 pure premium filed by the Illinois Compensation Rating Bureau ~~a~~
21 ~~rating organization~~ pursuant to subsection (2) must file with
22 the Director the modification factor it is using for expenses
23 and profit so that the final rates in use by such company can

1 be determined.

2 (2) Beginning January 1, 1983, the Illinois Compensation
3 Rating Bureau ~~each licensed rating organization~~ must file with
4 the Director every manual of classification, every manual of
5 rules and advisory rates, every pure premium which has been
6 fully adjusted and fully developed, every rating plan and every
7 modification of any of the foregoing which it intends to
8 recommend for use to its members and subscribers, not later
9 than 30 days after such manual, premium, plan or modification
10 thereof takes effect. The Illinois Compensation Rating Bureau
11 ~~Every licensed rating organization~~ shall also file with the
12 Director the rate classification system, all rating rules,
13 rating plans, policy forms, underwriting rules or similar
14 materials, and each modification of any of the foregoing which
15 it requires its members and subscribers to adhere to not later
16 than 30 days before such filings or modifications thereof are
17 to take effect. Every such filing shall state the proposed
18 effective date thereof and shall indicate the character and
19 extent of the coverage contemplated.

20 (3) A filing and any supporting information made pursuant
21 to this Section shall be open to public inspection after the
22 filing becomes effective.

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

24 (215 ILCS 5/458) (from Ch. 73, par. 1065.5)

25 Sec. 458. Disapproval of filings.

1 (1) If within thirty days of any filing the Director finds
2 that such filing does not meet the requirements of this
3 Article, he shall send to the company or the Illinois
4 Compensation Rating Bureau ~~rating organization~~ which made such
5 filing a written notice of disapproval of such filing,
6 specifying therein in what respects he finds that such filing
7 fails to meet the requirements of this Article and stating
8 when, within a reasonable period thereafter, such filing shall
9 be deemed no longer effective. If the company or the Illinois
10 Compensation Rating Bureau ~~rating organization~~ making the
11 filing shall, prior to the expiration of the period prescribed
12 in the notice, request a hearing, such filings shall be
13 effective until the expiration of a reasonable period specified
14 in any order entered thereon. If the rate resulting from such
15 filing be unfairly discriminatory or materially inadequate,
16 and the difference between such rate and the approved rate
17 equals or exceeds the cost of making an adjustment, the
18 Director shall in such notice or order direct an adjustment of
19 the premium to be made with the policyholder either by refund
20 or collection of additional premium. If the policyholder does
21 not accept the increased rate, cancellation shall be made on a
22 pro rata basis. Any policy issued pursuant to this subsection
23 shall contain a provision that the premium thereon shall be
24 subject to adjustment upon the basis of the filing finally
25 approved.

26 (2) If at any time subsequent to the applicable review

1 period provided for in subsection (1) of this Section, the
2 Director finds that a filing does not meet the requirements of
3 this Article, he shall, after a hearing held upon not less than
4 ten days written notice, specifying the matters to be
5 considered at such hearing, to every company and the Illinois
6 Compensation Rating Bureau ~~rating organization~~ which made such
7 filing, issue an order specifying in what respects he finds
8 that such filing fails to meet the requirements of this
9 Article, and stating when, within a reasonable period
10 thereafter, such filings shall be deemed no longer effective.
11 Copies of said order shall be sent to every such company and
12 rating organization. Said order shall not affect any contract
13 or policy made or issued prior to the expiration of the period
14 set forth in said order.

15 (3) Any person or organization aggrieved with respect to
16 any filing which is in effect may make written application to
17 the Director for a hearing thereon, provided, however, that the
18 company or the Illinois Compensation Rating Bureau ~~rating~~
19 ~~organization~~ that made the filing shall not be authorized to
20 proceed under this subsection. Such application shall specify
21 the grounds to be relied upon by the applicant. If the Director
22 shall find that the application is made in good faith, that the
23 applicant would be so aggrieved if his grounds are established,
24 and that such grounds otherwise justify holding such a hearing,
25 he shall, within thirty days after receipt of such application,
26 hold a hearing upon not less than ten days written notice to

1 the applicant and to every company and rating organization
2 which made such filing.

3 If, after such hearing, the Director finds that the filing
4 does not meet the requirements of this Article, he shall issue
5 an order specifying in what respects he finds that such filing
6 fails to meet the requirements of this Article, and stating
7 when, within a reasonable period thereafter, such filing shall
8 be deemed no longer effective. Copies of said order shall be
9 sent to the applicant and to every such company and rating
10 organization. Said order shall not affect any contract or
11 policy made or issued prior to the expiration of the period set
12 forth in said order.

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

14 (215 ILCS 5/459) (from Ch. 73, par. 1065.6)

15 Sec. 459. Rating bureau ~~organizations~~.

16 (1) The Illinois Compensation Rating Bureau is created as a
17 quasi-governmental entity. The Director shall have oversight
18 over the Bureau only as established by law. Every insurer that
19 writes, amends, delivers, issues, or renews any policy of
20 insurance specified under Article XXIX of this Code has
21 membership in the Bureau.

22 (1.5) The Bureau has the following purposes:

23 (a) to establish, maintain, and administer rules,
24 regulations, classifications, rates, and rating plans to
25 govern the transaction of insurance included in Article

1 XXIX of this Code;

2 (b) to cooperate with other rate service organizations
3 and with insurers in the development of rules, rates, and
4 rating plans and insurance policies and forms;

5 (c) to secure and analyze statistical and other data
6 required to accomplish the purposes set forth in this
7 subsection (1.5);

8 (d) to inspect and classify risks;

9 (e) to file with the Director on behalf of its members
10 every manual of classifications, rules, and rates and every
11 rating plan and rating plan modification proposed for use
12 in this State;

13 (f) to assist the Director and insurers in the
14 promotion of safety in industry; and

15 (g) to assist in any matter necessary for the
16 accomplishment of these purposes.

17 ~~A corporation, an unincorporated association, a~~
18 ~~partnership or an individual, whether located within or outside~~
19 ~~this state, may make application to the Director for license as~~
20 ~~a rating organization for such kinds of insurance or~~
21 ~~subdivisions thereof as are specified in its application and~~
22 ~~shall file therewith (a) a copy of its constitution, its~~
23 ~~articles of agreement or association or its certificate of~~
24 ~~incorporation, and of its bylaws, rules and regulations~~
25 ~~governing the conduct of its business, (b) a list of its~~
26 ~~members and subscribers, (c) the name and address of a resident~~

1 ~~of this state upon whom notices or orders of the Director or~~
2 ~~process affecting such rating organization may be served and~~
3 ~~(d) a statement of its qualifications as a rating organization.~~
4 ~~If the Director finds that the applicant is competent,~~
5 ~~trustworthy and otherwise qualified to act as a rating~~
6 ~~organization and that its constitution, articles of agreement~~
7 ~~or association or certificate of incorporation, and its bylaws,~~
8 ~~rules and regulations governing the conduct of its business~~
9 ~~conform to the requirements of law, he shall issue a license~~
10 ~~specifying the kinds of insurance or subdivisions thereof for~~
11 ~~which the applicant is authorized to act as a rating~~
12 ~~organization. Every such application shall be granted or denied~~
13 ~~in whole or in part by the Director within sixty days of the~~
14 ~~date of its filing with him. Licenses issued pursuant to this~~
15 ~~Section shall remain in effect for three years unless sooner~~
16 ~~suspended or revoked by the Director. The fee for said license~~
17 ~~shall be twenty five dollars. Licenses issued pursuant to this~~
18 ~~Section may be suspended or revoked by the Director, after~~
19 ~~hearing upon notice, in the event the rating organization~~
20 ~~ceases to meet the requirements of this subsection. Every~~
21 ~~rating organization shall notify the Director promptly of every~~
22 ~~change in (a) its constitution, its articles of agreement or~~
23 ~~association or its certificate of incorporation, and its~~
24 ~~bylaws, rules and regulations governing the conduct of its~~
25 ~~business, (b) its list of members and subscribers and (c) the~~
26 ~~name and address of the resident of this state designated by it~~

1 ~~upon whom notices or orders of the Director or process~~
2 ~~affecting such rating organization may be served.~~

3 (2) (Blank). ~~Subject to rules and regulations which have~~
4 ~~been approved by the Director as reasonable, each rating~~
5 ~~organization shall permit any company, not a member, to be a~~
6 ~~subscriber to its rating services for any kind of insurance or~~
7 ~~subdivision thereof for which it is authorized to act as a~~
8 ~~rating organization. Notice of proposed changes in such rules~~
9 ~~and regulations shall be given to subscribers. Each rating~~
10 ~~organization shall furnish its rating services without~~
11 ~~discrimination to its members and subscribers. The~~
12 ~~reasonableness of any rule or regulation in its application to~~
13 ~~subscribers, or the refusal of any rating organization to admit~~
14 ~~a company as a subscriber, shall, at the request of any~~
15 ~~subscriber or any such company, be reviewed by the Director at~~
16 ~~a hearing held upon at least ten days' written notice to such~~
17 ~~rating organization and to such subscriber or company. If the~~
18 ~~Director finds that such rule or regulation is unreasonable in~~
19 ~~its application to subscribers, he shall order that such rule~~
20 ~~or regulation shall not be applicable to subscribers. If the~~
21 ~~rating organization fails to grant or reject a company's~~
22 ~~application for subscribership within thirty days after it was~~
23 ~~made, the company may request a review by the Director as if~~
24 ~~the application had been rejected. If the Director finds that~~
25 ~~the company has been refused admittance to the rating~~
26 ~~organization as a subscriber without justification, he shall~~

1 ~~order the rating organization to admit the company as a~~
2 ~~subscriber. If he finds that the action of the rating~~
3 ~~organization was justified, he shall make an order affirming~~
4 ~~its action.~~

5 (3) The Illinois Compensation Rating Bureau ~~No rating~~
6 ~~organization~~ shall not adopt any rule the effect of which would
7 be to prohibit or regulate the payment of dividends, savings or
8 unabsorbed premium deposits allowed or returned by companies to
9 their policyholders, members or subscribers.

10 (4) (Blank). ~~Cooperation among rating organizations or~~
11 ~~among rating organizations and companies in matters within the~~
12 ~~scope of this Article is hereby authorized, provided the~~
13 ~~filings resulting from such cooperation are subject to all the~~
14 ~~provisions of this Article which are applicable to filings~~
15 ~~generally. The Director may review such cooperative activities~~
16 ~~and practices and if, after a hearing, he finds that any such~~
17 ~~activity or practice is unfair or unreasonable or otherwise~~
18 ~~inconsistent with the provisions of this Article, he may issue~~
19 ~~a written order specifying in what respects such activity or~~
20 ~~practice is unfair or unreasonable or otherwise inconsistent~~
21 ~~with the provisions of this Article, and requiring the~~
22 ~~discontinuance of such activity or practice.~~

23 (5) The Illinois Compensation Rating Bureau ~~A rating~~
24 ~~organization~~ may require members and subscribers to adhere to a
25 rate classification system, rating rules, rating plans, policy
26 forms, and underwriting rules or similar materials; however, no

1 insurer may agree with any other insurer or with a rating
2 organization to adhere to or use any rate or schedule rating
3 plan. For the purposes of this Article, "rate" means the charge
4 for insurance per unit of exposure, prior to any application of
5 individual risk variations based on loss or expense
6 considerations, or a consideration of both, and does not
7 include minimum premiums.

8 (6) Two or more insurers having a common ownership or
9 operating in this State under common management or control may
10 act in concert between or among themselves with respect to
11 those activities authorized in this Article as if they were a
12 single insurer.

13 (7) The fact that 2 or more insurers consistently or
14 intermittently use the same rates is not sufficient in itself
15 to support a finding that an illegal agreement exists, and may
16 be used only for the purpose of supplementing or explaining
17 other direct evidence of the existence of any such agreement.

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

19 (215 ILCS 5/459a new)

20 Sec. 459a. Operation and control of the Illinois
21 Compensation Rating Bureau.

22 (1) The Bureau shall be governed by the Rating Committee.
23 The Rating Committee shall establish bylaws for the operation
24 of the Bureau that, with amendments thereto, shall be filed
25 with and approved by the Director before they are effective.

1 (2) The Rating Committee shall consist of 10 members. Two
2 members of the Rating Committee shall represent self-insured
3 employer interests and shall be appointed by and serve at the
4 pleasure of the Governor. Of the remaining 8 members, 4 shall
5 be chosen by a majority vote of the members of the Bureau who
6 are stock insurers and 4 shall be chosen by a majority vote of
7 the members of the Bureau who are mutual insurers. Both stock
8 and mutual insurers shall be represented equally on all other
9 committees, including any managing committee. Each member of a
10 committee shall have one vote, with the Director of Insurance
11 deciding the matter in the event of a tie.

12 (3) The services of the Bureau shall be supplied to members
13 without discrimination. Each member of the Bureau shall pay an
14 equitable share of the cost of operating the Bureau.

15 (4) Upon demand, the Bureau shall furnish to any employer
16 upon whose risk a survey has been made and to any insurer full
17 information about the survey.

18 (5) The Bureau shall, within a reasonable time after
19 receiving a written request and upon payment of a reasonable
20 charge, furnish information as to any rate to the insured
21 affected by it or to an authorized representative.

22 (215 ILCS 5/461) (from Ch. 73, par. 1065.8)

23 Sec. 461. Appeal by minority. Any member of or subscriber
24 to the Illinois Compensation Rating Bureau ~~a rating~~
25 ~~organization~~ may appeal to the Director from the action or

1 decision of such rating organization in approving or rejecting
2 any proposed change in or addition to the filings of such
3 rating organization and the Director shall, after a hearing
4 held upon not less than ten days' written notice to the
5 appellant and to such rating organization, issue an order
6 approving the action or decision of such rating organization or
7 directing it to give further consideration to such proposal,
8 or, if such appeal is from the action or decision of the rating
9 organization in rejecting a proposed addition to its filings,
10 he may, in the event he finds that such action or decision was
11 unreasonable, issue an order directing the rating organization
12 to make an addition to its filings, on behalf of its members
13 and subscribers, in a manner consistent with his findings,
14 within a reasonable time after the issuance of such order.

15 If such appeal is based upon the failure of the rating
16 organization to make a filing on behalf of such member or
17 subscriber which is based on a system of expense provisions
18 which differs, in accordance with the right granted in
19 subdivision (b) of subsection (1) of Section 456, from the
20 system of expense provisions included in a filing made by the
21 rating organization, the Director shall, if he grants the
22 appeal, order the rating organization to make the requested
23 filing for use by the appellant. In deciding such appeal the
24 Director shall apply the standards set forth in Section 456.

25 (Source: Laws 1947, p. 1098.)

1 (215 ILCS 5/462) (from Ch. 73, par. 1065.9)

2 Sec. 462. Information to be furnished insureds - Hearings
3 and appeals of insureds. The Illinois Compensation Rating
4 Bureau ~~Every rating organization~~, and every company which does
5 not adopt the rates of the Illinois Compensation Rating Bureau
6 ~~a rating organization~~, shall, within a reasonable time after
7 receiving written request therefor, furnish to any insured
8 affected by a rate made by it, or to the authorized
9 representative of such insured, in readily understandable
10 language, all pertinent information as to such rate as
11 specified in rules adopted by the Department.

12 The Illinois Compensation Rating Bureau ~~Every rating~~
13 ~~organization~~, and every company which does not adopt the rates
14 of the Illinois Compensation Rating Bureau ~~a rating~~
15 ~~organization~~, shall provide within this state reasonable means
16 whereby any person aggrieved by the application of its rating
17 system may be heard, in person or by his authorized
18 representative, on his written request to review the manner in
19 which such rating system has been applied in connection with
20 the insurance afforded him. If the Illinois Compensation Rating
21 Bureau ~~rating organization~~ or company fails to grant or reject
22 such request within thirty days after it is made, the applicant
23 may proceed in the same manner as if his application had been
24 rejected. Any party affected by the action of the Illinois
25 Compensation Rating Bureau ~~such rating organization~~ or such
26 company on such request may, within thirty days after written

1 notice of such action, appeal to the Director, who, after a
2 hearing held upon not less than ten days' written notice to the
3 appellant and to such rating organization or company, may
4 affirm or reverse such action.

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

6 (215 ILCS 5/463) (from Ch. 73, par. 1065.10)

7 Sec. 463. Advisory organizations.

8 (1) Every group, association or other organization of
9 companies whether located within or outside this state, which
10 assists companies which make their own filings or the Illinois
11 Compensation Rating Bureau ~~rating organizations~~ in rate
12 making, by the collection and furnishing of loss or expense
13 statistics, or by the submission of recommendations, but which
14 does not make filings under this Article, shall be known as an
15 advisory organization.

16 (2) Every advisory organization shall file with the
17 Director (a) a copy of its constitution, its articles of
18 agreement or association or its certificate of incorporation
19 and of its by-laws, rules and regulations governing its
20 activities, (b) a list of its members, (c) the name and address
21 of a resident of this state upon whom notices or orders of the
22 Director or process issued at his direction may be served, and
23 (d) an agreement that the Director may examine such advisory
24 organization in accordance with the provisions of Section 465
25 of this Article.

1 (3) If, after a hearing, the Director finds that the
2 furnishing of such information or assistance involves any act
3 or practice which is unfair or unreasonable or otherwise
4 inconsistent with the provisions of this Article, he may issue
5 a written order specifying in what respects such act or
6 practice is unfair or unreasonable or otherwise inconsistent
7 with the provisions of this Article, and requiring the
8 discontinuance of such act or practice.

9 (4) No company which makes its own filings nor any rating
10 organization shall support its filings by statistics or adopt
11 rate making recommendations, furnished to it by an advisory
12 organization which has not complied with this Section or with
13 an order of the Director involving such statistics or
14 recommendations issued under subsection (3) of this Section. If
15 the Director finds such company or rating organization to be in
16 violation of this subsection he may issue an order requiring
17 the discontinuance of such violation.

18 (Source: Laws 1947, p. 1098.)