



Rep. Michael J. Madigan

Filed: 5/21/2015

09900HB1287ham004

LRB099 05153 JLS 35866 a

1 AMENDMENT TO HOUSE BILL 1287

2 AMENDMENT NO. _____. Amend House Bill 1287, AS AMENDED, by
3 inserting the following in its proper numeric sequence in the
4 bill:

5 "Section 2. The Illinois Insurance Code is amended by
6 changing Sections 456, 457, and 458 and by adding Section 462a
7 as follows:

8 (215 ILCS 5/456) (from Ch. 73, par. 1065.3)

9 Sec. 456. Making of rates. (1) All rates shall be made in
10 accordance with the following provisions:

11 (a) Due consideration shall be given to past and
12 prospective loss experience within and outside this state, to
13 catastrophe hazards, if any, to a reasonable margin for profit
14 and contingencies, to dividends, savings or unabsorbed premium
15 deposits allowed or returned by companies to their
16 policyholders, members or subscribers, to past and prospective

1 expenses both countrywide and those specially applicable to
2 this state, to underwriting practice and judgment and to all
3 other relevant factors within and outside this state;

4 (b) The systems of expense provisions included in the rates
5 for use by any company or group of companies may differ from
6 those of other companies or groups of companies to reflect the
7 requirements of the operating methods of any such company or
8 group with respect to any kind of insurance, or with respect to
9 any subdivision or combination thereof for which subdivision or
10 combination separate expense provisions are applicable;

11 (c) Risks may be grouped by classifications for the
12 establishment of rates and minimum premiums. Classification
13 rates may be modified to produce rates for individual risks in
14 accordance with rating plans which measure variation in hazards
15 or expense provisions, or both. Such rating plans may measure
16 any differences among risks that have a probable effect upon
17 losses or expenses;

18 (d) Rates shall not be excessive, inadequate or unfairly
19 discriminatory.

20 ~~A rate in a competitive market is not excessive. A rate in~~
21 ~~a noncompetitive market~~ is excessive if it is likely to produce
22 a long run profit that is unreasonably high for the insurance
23 provided or if expenses are unreasonably high in relation to
24 the services rendered.

25 A rate is not inadequate unless such rate is clearly
26 insufficient to sustain projected losses and expenses in the

1 class of business to which it applies and the use of such rate
2 has or, if continued, will have the effect of substantially
3 lessening competition or the tendency to create monopoly in any
4 market.

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

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

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

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

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

2 (215 ILCS 5/457) (from Ch. 73, par. 1065.4)

3 Sec. 457. Rate filings. (1) ~~Every Beginning January 1,~~
4 ~~1983,~~ every company shall prefile ~~file~~ with the Director every
5 manual of classifications, every manual of rules and rates,
6 every rating plan and every modification of the foregoing which
7 it intends to use. Such filings shall be made at least ~~not~~
8 ~~later than~~ 30 days before ~~after~~ they become effective. A
9 company may satisfy its obligation to make such filings by
10 adopting the filing of a licensed rating organization of which
11 it is a member or subscriber, filed pursuant to subsection (2)
12 of this Section, in total or, with the approval of the
13 Director, ~~by notifying the Director in what respects it intends~~
14 ~~to~~ deviate from such filing. If a company intends to deviate
15 from the filing of a licensed rating organization of which it
16 is a member, the company shall provide the Director with
17 supporting information that specifies the basis for the
18 requested deviation and provides justification for the
19 deviation. Any company adopting a pure premium filed by a
20 rating organization pursuant to subsection (2) must file with
21 the Director the modification factor it is using for expenses
22 and profit so that the final rates in use by such company can
23 be determined.

24 (2) ~~Each Beginning January 1, 1983, each~~ licensed rating
25 organization must prefile ~~file~~ with the Director every manual

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

16 (3) A filing and any supporting information made pursuant
17 to this Section shall be open to public inspection as soon as
18 filed ~~after the filing becomes effective~~.

19 (4) A filing shall not be effective nor used until approved
20 by the Director. A filing shall be deemed approved if the
21 Director fails to disapprove within 30 days after the filing.

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

23 (215 ILCS 5/458) (from Ch. 73, par. 1065.5)

24 Sec. 458. Disapproval of filings. (1) If within 30 ~~thirty~~
25 days of any filing the Director finds that such filing does not

1 meet the requirements of this Article, he shall send to the
2 company or rating organization which made such filing a written
3 notice of disapproval of such filing, specifying therein in
4 what respects he finds that such filing fails to meet the
5 requirements of this Article ~~and stating when, within a~~
6 ~~reasonable period thereafter, such filing shall be deemed no~~
7 ~~longer effective.~~ A company or rating organization whose filing
8 has been disapproved shall be given a hearing upon a written
9 request made within 30 days after the disapproval order. ~~If the~~
10 ~~company or rating organization making the filing shall, prior~~
11 ~~to the expiration of the period prescribed in the notice,~~
12 ~~request a hearing, such filings shall be effective until the~~
13 ~~expiration of a reasonable period specified in any order~~
14 ~~entered thereon. If the rate resulting from such filing be~~
15 ~~unfairly discriminatory or materially inadequate, and the~~
16 ~~difference between such rate and the approved rate equals or~~
17 ~~exceeds the cost of making an adjustment, the Director shall in~~
18 ~~such notice or order direct an adjustment of the premium to be~~
19 ~~made with the policyholder either by refund or collection of~~
20 ~~additional premium. If the policyholder does not accept the~~
21 ~~increased rate, cancellation shall be made on a pro rata basis.~~
22 ~~Any policy issued pursuant to this subsection shall contain a~~
23 ~~provision that the premium thereon shall be subject to~~
24 ~~adjustment upon the basis of the filing finally approved.~~

25 (2) If at any time subsequent to the applicable review
26 period provided for in subsection (1) of this Section, the

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

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

26 If, after such hearing, the Director finds that the filing

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

10 (4) Whenever an insurer has no legally effective rates as a
11 result of the Director's disapproval of rates or other act, the
12 Director shall on request of the insurer specify interim rates
13 for the insurer that are high enough to protect the interests
14 of all parties and may order that a specified portion of the
15 premiums be placed in an escrow account approved by him or her.
16 When new rates become legally effective, the Director shall
17 order the escrowed funds or any overcharge in the interim rates
18 to be distributed appropriately, except that refunds to
19 policyholders that are de minimus shall not be required.

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

21 (215 ILCS 5/462a new)

22 Sec. 462a. Premiums; review.

23 (a) Premiums shall not be excessive. A premium is excessive
24 if it is likely to produce a long run profit that is
25 unreasonably high for the insurance provided or if expenses are

1 unreasonably high in relation to the coverage or services
2 rendered.

3 (b) At any time, an insured may file a request for review
4 of a premium with the Director. The request shall be in such
5 form as the Director prescribes and shall specify the grounds
6 on which the premium is excessive.

7 If within 30 days of any proper request for review under
8 this Section, the Director finds that the premium does not meet
9 the requirements of this Section, he or she shall send to the
10 insurer a written notice of disapproval of premium, specifying
11 therein in what respects he or she finds that the premium fails
12 to meet the requirements of this Section, stating when, within
13 a reasonable period thereafter, the premium shall be deemed no
14 longer effective, and ordering an adjustment of the premium. An
15 insurer whose premium has been disapproved shall be given a
16 hearing upon a written request made within 30 days after the
17 disapproval order. If the insurer requests a hearing, the
18 premium shall be effective until the expiration of a reasonable
19 period specified in any order entered thereon. If, after a
20 hearing, the premium is found to be excessive, the Director
21 shall order an adjustment of the premium. The insurer shall
22 refund to the insured any amount found to be excessive under
23 this Section.

24 If the Director finds that a review is not warranted or a
25 premium is not excessive, he or she shall provide notice of
26 that decision to the insured and the insurer.

1 (c) An insurer shall provide all information requested by
2 the Director as he or she determines necessary to assist in
3 review of premiums under this Section.

4 (215 ILCS 5/460 rep.)

5 Section 3. The Illinois Insurance Code is amended by
6 repealing Section 460.

7 Section 4. The Workers' Compensation Act is amended by
8 adding Section 4e as follows:

9 (820 ILCS 305/4e new)

10 Sec. 4e. Safety programs and return to work programs;
11 recalculation of premiums and waiver of self-insurers fee.

12 (a) An employer may file with the Commission a workers'
13 compensation safety program or a workers' compensation return
14 to work program implemented by the employer. The Commission may
15 certify any such safety program as a bona fide safety program
16 after reviewing the program for the following minimum
17 requirements: adequate safety training for employees;
18 establishment of joint employer-employee safety committees;
19 use of safety devices; and consultation with safety
20 organizations. The Commission may certify any such return to
21 work program as a bona fide return to work program after
22 reviewing the program for the following minimum requirements:
23 light duty or restricted duty work; leave of absence policy;

1 and full duty return to work policy. The Commission shall
2 notify the Department of Insurance of the certification.

3 (b) Upon receipt of a certification notice from the
4 Commission under this Section related to an employer that
5 provides workers' compensation through an insurer, the
6 Director of Insurance shall immediately direct in writing the
7 employer's workers' compensation insurer to recalculate the
8 workers' compensation premium rates for the employer so that
9 those premium rates incorporate and take into account the
10 certified program.

11 (c) If any workers' compensation safety program or a
12 workers' compensation return to work program implemented by a
13 self-insured employer is certified under this Section, the
14 annual fee under Section 4d of this Act is waived for the
15 self-insured employer as long as the workers' compensation
16 safety program or a workers' compensation return to work
17 program continues. The self-insured employer shall certify the
18 continuation of the program by each July 1 after the waiver is
19 obtained."