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HOUSE BILL NO. 1572

Offered January 9, 2013

Prefiled January 4, 2013

A *BILL to amend and reenact §§ 38.2-1908 and 65.2-821 of the Code of Virginia, relating to the regulation of rates of workers' compensation insurance; use of experience rating.*

Patron—Webert

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. **That §§ 38.2-1908 and 65.2-821 of the Code of Virginia are amended and reenacted as follows:**
§ 38.2-1908. Rate making and delegation of filing obligation.

A. An insurer shall establish rates and supplementary rate information for any market segment based on the factors in § 38.2-1904. A rate service organization shall establish prospective loss costs and supplementary rate information for any market segment based on the factors in § 38.2-1904. An insurer may use supplementary rate information prepared by a rate service organization and may use prospective loss costs determined by the rate service organization with modification for its own expense and profit. The insurer may modify the prospective loss costs based on its own loss experience as the credibility of that loss experience allows.

B. An insurer may discharge its obligation to file supplementary rate information under subsection A of § 38.2-1906 by giving notice to the Commission that it uses supplementary rate information prepared and filed with the Commission by a designated rate service organization of which it is a member, subscriber, or service purchaser. The Commission may by order require an insurer to provide information in addition to that filed by the rate service organization. The insurer's supplementary rate information shall be that filed from time to time by the rate service organization, including any amendments to the supplementary rate information, subject to modifications filed by the insurer.

C. Every insurer shall adhere to the uniform classification system, uniform experience rating plan, and uniform statistical plan approved by the Commission in the provision of insurance defined in § 38.2-119. *The Commission shall not approve an experience rating plan with regard to insurance defined in § 38.2-119 unless such plan ensures that an insured's experience modification factor or rating is not increased as a result of an accident that is the fault of a third party not related to the insured, regardless of whether such third party is uninsured or underinsured.* An insurer may develop subclassifications of the uniform classification system upon which rates for insurance defined in § 38.2-119 may be made; however, such subclassification must first be filed with and approved by the Commission. An insurer filing such subclassifications must certify to the Commission that the data it produces can be reported in a manner consistent with the uniform statistical plan and uniform classification system of its designated rate service organization.

§ 65.2-821. State Corporation Commission to make rules and regulations, and establish rating schedules and rates.

A. The State Corporation Commission may make reasonable rules and regulations for the assignment of risks to insurance carriers. It shall establish such rate classifications, rating schedules, rates, rules and regulations to be used by insurance carriers issuing assigned risk workers' compensation policies in accordance with this chapter as appear to it to be proper.

B. In the establishment of rate classifications, rating schedules, rates, rules and regulations, it shall be guided by such principles and practices as have been established under its statutory authority to regulate workers' compensation insurance rates and it may act in conformity with its statutory discretionary authority in such matters, *provided that the State Corporation Commission shall ensure that an insured's experience modification factor or rating shall not be increased as a result of an accident that is the fault of a third party not related to the insured, regardless of whether such third party is uninsured or underinsured.*

INTRODUCED

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