**South Carolina General Assembly**

118th Session, 2009-2010

**H. 4535**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. T.R. Young, Wylie, Stringer, Huggins, Parker, Stewart, D.C. Smith, J.R. Smith, Allison, Brady, Delleney and Sandifer

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Introduced in the House on February 4, 2010

Currently residing in the House Committee on **Labor, Commerce and Industry**

Summary: Workers' compensation

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

2/4/2010 House Introduced and read first time [HJ](file:///h:\HJ%20Archive\2010\02-04-10.docx)‑22

2/4/2010 House Referred to Committee on **Labor, Commerce and Industry** [HJ](file:///h:\HJ%20Archive\2010\02-04-10.docx)‑22

**VERSIONS OF THIS BILL**

[2/4/2010](file:///p:\pprever\2009-10\4535_20100204.docx)

**A** **BILL**

TO AMEND SECTION 38‑73‑525, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE REQUIREMENT THAT AN INSURER WRITING A WORKERS’ COMPENSATION POLICY SHALL FILE CERTAIN INFORMATION ON WHICH IT RELIES TO SUPPORT ITS RATE REQUEST, SO AS TO REQUIRE THE INSURER TO ADOPT THE MOST RECENT LOSS COST WITHIN ONE HUNDRED TWENTY DAYS OF APPROVAL OF THE LOSS COSTS; AND TO AMEND SECTION 38‑73‑1210, RELATING TO THE REQUIREMENT THAT ITS OBLIGATION TO MAKE CERTAIN FILINGS MAY BE SATISFIED BY MAKING FILINGS AS A MEMBER OF, OR SUBSCRIBER TO, A LICENSED RATING ORGANIZATION THAT MAKES FILINGS, SO AS TO REQUIRE THESE FILINGS BE RULE AND FORM FILINGS AND NOT LOSS COST ADOPTION FILINGS, AND REQUIRE THE INSURER TO FILE FOR CERTAIN APPROVAL IF THE RATING ORGANIZATION TO WHICH IT SUBSCRIBES HAS A RATE INCREASE WITHIN TWELVE MONTHS AFTER THE INSURER BECOMES A MEMBER.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 38‑73‑525 of the 1976 Code, as last amended by Section 2, Part III, Act 111 of 2007, is further amended to read:

“Section 38‑73‑525. (A) At least thirty days ~~prior to~~ before using new rates, ~~every~~ each insurer writing workers’ compensation ~~must~~ shall file its multiplier for expenses, assessments, profit, and contingencies and any information relied upon by the insurer to support the multiplier and any modifications to loss costs and confirm the adoption of the most recently approved loss cost. Each insurer writing workers’ compensation insurance shall adopt the most recent loss cost within one hundred twenty days of approval of the loss costs. If the insurer is not using the most recent loss cost, the insurer shall file to adopt the most recently approved loss cost when it submits its loss cost multiplier filing. This filing is subject to the approval of the director or his designee. A copy of the filing must be provided simultaneously to the Consumer Advocate. The filing must contain, at a minimum, the following information: commission expense; other acquisition expense; general expense; expenses associated with recoveries from the Second Injury Fund; guaranty fund assessments; other assessments; premium taxes; miscellaneous taxes, licenses, or fees; and provision for profit and contingencies; and the date of approval of the loss cost to which the multiplier is applied, which must be the most recently approved loss cost. Rate filings must be reviewed by an actuary employed or retained by the department who is a member of the American Academy of Actuaries or an associate or fellow of the Casualty Actuarial Society. Within the ~~thirty‑day~~ sixty‑day period, if the director or his ~~or her~~ designee believes the information filed is not complete, the director or his ~~or her~~ designee ~~must~~ shall notify the insurer of additional information to be provided. Within fifteen days of receipt of the notification, the insurer ~~must~~ shall provide the requested information or file for a hearing challenging the reasonableness of the director’s or his ~~or her~~ designee’s request. The burden is on the insurer to justify the denial of the additional information.

(B) Unless a hearing has been requested, upon expiration of the ~~thirty‑day~~ sixty‑day period or the fifteen‑day period, whichever is later, the insurer may use the rates developed ~~using the multiplier of expenses, assessments, profit, and contingencies~~ using the most recently approved loss costs and loss cost multiplier.”

SECTION 2. Section 38‑73‑1210 of the 1976 Code is amended to read:

“Section 38‑73‑1210. (A) An insurer may satisfy its obligation to make required rule and form filings, not loss cost adoption filings, by becoming a member of, or a subscriber to, a licensed rating organization which makes filings and by authorizing the director or his designee to accept the filings on its behalf. However, notwithstanding any other provisions of this article, ~~no~~ a member or subscriber ~~may~~, within twelve months after its membership or subscribership, may not file to adopt ~~any~~ a rate approved for use for the rating organization if the rate is more than the rate in use by the member or subscriber ~~prior to~~ before its membership or subscribership in the rating organization. Further, notwithstanding the provisions of Sections 38‑73‑1300, 38‑73‑1310, and 38‑73‑1320, ~~no~~ a member or subscriber, within twelve months after its membership or subscribership, may not be granted an upward deviation from its rate in use when becoming a member or subscriber. However, if a rate increase for the rating organization is approved within twelve months after an insurer becomes a member or subscriber, the member or subscriber ~~may increase its rates by the same percentage of increase granted the rating organization~~ shall file for approval of (1) the most recent loss cost within one hundred twenty days of approval of the loss cost, and (2) the lost cost multiplier that is applied to develop the rates. This filing is subject to the approval of the director or his designee. Nothing contained in this chapter may be construed as requiring ~~any~~ an insurer to become a member of or a subscriber to ~~any~~ a rating organization.

(B) In addition to other activities not prohibited by this chapter, a rating organization may collect, compile, and disseminate to insurers compilations of past and current premiums of insurers.”

SECTION 3. This act takes effect upon approval by the Governor.

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