S T A T E O F N E W Y O R K

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2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. DESTITO, MAGEE, CHRISTENSEN, KOON, GUNTHER -- Multi-Sponsored by -- M. of A. ABBATE, CLARK, COLTON, GLICK, GOTTFRIED, HOOPER, JOHN, PERRY, PHEFFER, WRIGHT -- read once and referred to the Committee on Labor

AN ACT to amend the workers' compensation law, in relation to requiring consideration of employer's loss experience in the setting of rates for workers' compensation insurance and to amend the insurance law, in relation to information required to be filed in support of workers' compensation insurance rates

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Subdivision 1 of section 89 of the workers' compensation law, as amended by chapter 135 of the laws of 1998, is amended to read as follows:

1. Employments and employees in the state fund shall be divided into such groups and classes as shall be equitable based upon differences of industry or hazard for the purpose of establishing premium rates for workers' compensation insurance, and for such purpose a system of merit rating [may] SHALL be employed which shall take account of the peculiar hazard of each individual risk AND AN EMPLOYER'S LOSS EXPERIENCE DURING THE MOST RECENT RATING PLAN PERIOD IRRESPECTIVE OF THE TOTAL PREMIUM COST BILLED TO THE INDIVIDUAL EMPLOYER. Such premiums in the state fund shall be fixed at the lowest possible rates consistent with the maintenance of a solvent fund and of reasonable reserves and surplus.

S 2. Subsection (a) of section 2304 of the insurance law is amended to read as follows:

(a) In the making of rates, consideration shall be given to past and prospective loss experience, including the conflagration and catastrophe hazards, if any, both within and without this state, to all factors reasonably attributable to the class of risks, to a reasonable profit,

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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to past and prospective expenses both country-wide and those specially applicable to this state, and in the case of participating insurers to policyholders' dividends, savings or unabsorbed premium deposits allowed or returned to policyholders, members or subscribers. IN THE MAKING OF RATES FOR WORKERS' COMPENSATION INSURANCE, IN ADDITION TO THE FOREGOING CONSIDERATION SHALL BE GIVEN TO EACH INDIVIDUAL EMPLOYER'S LOSS EXPERIENCE DURING THE MOST RECENT RATING PLAN PERIOD IRRESPECTIVE OF TOTAL PREMIUM COST BILLED TO SUCH INDIVIDUAL EMPLOYER.

S 3. This act shall take effect on the first of January next succeeding the date on which it shall have become a law.