§ 2304. Rate making and supporting information. (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, 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.

(b) The information furnished in support of a filing may include:

(1) the experience or judgment of the insurer or rate service organization making the rate;

(2) its interpretation of any statistical data it relies upon;

(3) the experience of other insurers or rate service organizations; or

(4) any other relevant factors.

(c) Risks may be grouped by classifications for the establishment of rates and minimum premiums. Classification rates may be modified to produce rates for individual risks in accordance with rating plans which establish standards for measuring variations in hazards or expense provisions, or both. Such standards may measure any differences among risks that can be demonstrated to have a probable effect upon losses or expenses.

(d) The systems of expense provisions included in the rates for use by any insurer or group of insurers may differ from those of other insurers or groups of insurers to reflect the requirements of the operating methods of any such insurer or group with respect to one or more kinds of insurance, or subdivisions of kinds of insurance, or classes of risks, or any part or combination of the foregoing, for which separate expense provisions are applicable.

(e)(1) Premiums for workers' compensation insurance for employments classified under sections two hundred twenty, two hundred forty and two hundred forty-one of the labor law, provided such employments are classified under each of said sections, shall be established on the basis of payroll and a formula which provides appropriate credits, provided such credits shall not apply to payroll in excess of the payroll limitation amount set forth in subdivision two of section eighty-nine of the workers' compensation law and this subsection. With

the exception of employments engaged in the construction of one or two family residential housing, premiums shall be calculated in accordance with the following limitations:

(A) For policies with rating anniversary dates after September thirtieth, nineteen hundred ninety-nine and before October first, two thousand, an employer's payroll for premium computation purposes in the affected construction classifications shall be the actual weekly payroll per employee for the number of weeks employed subject to a maximum of nine hundred dollars per week per employee plus one-half of the difference between the employer's total payroll and the limited payroll.

(B) For policies with rating anniversary dates after September thirtieth, two thousand and before October first, two thousand one, an employer's payroll for premium computation purposes in the affected construction classifications shall be the actual weekly payroll per employee for the number of weeks employed subject to a maximum of nine hundred dollars per week per employee.

(C) For policies with rating anniversary dates after September thirtieth, two thousand one and before October first, two thousand two, an employer's payroll for premium computation purposes in the affected construction classifications shall be the actual weekly payroll per employee for the number of weeks employed subject to a maximum of eight hundred dollars per week per employee.

(D) For policies with rating anniversary dates after September thirtieth, two thousand two, an employer's payroll for premium computation purposes in the affected construction classifications shall be the actual weekly payroll per employee for the number of weeks employed subject to a maximum of the greater of seven hundred fifty dollars per week or the weekly payroll amount upon which the maximum weekly benefit is based, per employee.

(2) The loss costs applicable to employments classified under sections two hundred twenty, two hundred forty and two hundred forty-one of the labor law, provided such employments are classified under each of said sections, shall be adjusted to reflect the payroll limitations required by this section as they separately affect such rates for work actually performed within each of the following geographic territories:

(A) Territory 1 comprising the counties of the Bronx, Kings, New York, Queens, and Richmond;

(B) Territory 2 comprising the counties of Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk and Westchester; and

(C) Territory 3 comprising all other counties within the state.

(f) The rate adjustments required by subsection (e) of this section shall be filed by the New York compensation insurance rating board in accordance with the provisions of section two thousand three hundred forty-seven of this article, and shall not become effective until approved by the superintendent.

(g) "Loss costs," for the purpose of workers' compensation insurance in this article, means that portion of a rate intended to represent the anticipated costs of claim payments and loss adjustment expenses associated with such claim payments, and may include one or more trend factors. Loss costs do not include provisions for expenses (other than loss adjustment expenses) such as acquisition costs, overhead and taxes, or profit. For all other purposes, the superintendent, except as otherwise provided in this chapter, may promulgate regulations defining loss costs.

(h) A loss cost filing shall be deemed to be a rate filing under this article.

(i) Nothing in this section shall prohibit the application of payroll limitation provisions at the discretion of the superintendent, provided such programs were in effect prior to the effective date of this subsection.

(j)(1) On or before July first, two thousand sixteen, the department shall make rules establishing requirements for health care facilities to obtain a reduced worker's compensation rate for safe patient handling programs implemented pursuant to title one-A of article twenty-nine-A of the public health law.

(2) The department shall complete an evaluation of the results of the reduced rate, including changes in claim frequency and costs, and shall report to the appropriate committees of the legislature on or before December first, two thousand eighteen and again on or before December first, two thousand twenty.