

INSURANCE CODE

TITLE 10. PROPERTY AND CASUALTY INSURANCE

SUBTITLE E. WORKERS' COMPENSATION INSURANCE

CHAPTER 2053. RATES FOR WORKERS' COMPENSATION INSURANCE

SUBCHAPTER A. RATE FILINGS

Sec. 2053.001. DEFINITIONS. In this subchapter:

(1) "Filer" means an insurance company that files rates, prospective loss costs, or supplementary rating information under this subchapter.

(2) "Insurance company" means a person authorized to engage in the business of workers' compensation insurance in this state. The term includes:

- (A) the Texas Mutual Insurance Company;
- (B) a Lloyd's plan under Chapter 941; and
- (C) a reciprocal and interinsurance exchange under Chapter 942.

(2-a) "Premium" means the amount charged for a workers' compensation insurance policy, including any endorsements, after the application of individual risk variations based on loss or expense considerations.

(3) "Prospective loss cost" means that portion of a rate that:

(A) does not include a provision for expenses or profit, other than loss adjustment expenses; and

(B) is based on historical aggregate losses and loss adjustment expenses projected by development to the ultimate value of those losses and expenses and projected through trending to a future point in time.

(4) "Rate" means the cost of workers' compensation insurance per exposure unit, whether expressed as a single number or as a prospective loss cost, adjusted to account for the treatment of expenses, profit, and individual insurance company variation in loss experience, before applying individual risk variations based on loss or expense considerations. The term does not include a minimum premium.

(5) "Supplementary rating information" means any manual, rating plan or schedule, plan of rules, rating rule, classification system, territory code or description, or other similar information required to determine the applicable premium for an insured. The term includes increased limits factors, deductible relativities, and other similar factors and relativities.

(6) "Supporting information" means:

(A) the experience and judgment of the filer and the experience or information of other insurance companies;

(B) the interpretation of any other information on which the filer relied;

(C) a description of methods used in making a rate; and

(D) any other information the department requires to be filed.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 730 (H.B. 2636), Sec. 3B.042(a), eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 9.042(a), eff. September 1, 2007.

Acts 2019, 86th Leg., R.S., Ch. 558 (S.B. 1336), Sec. 2, eff. September 1, 2019.

Sec. 2053.002. RATE STANDARDS. (a) In setting rates, an insurance company shall consider:

(1) past and prospective loss cost experience;

(2) operation expenses;

(3) investment income;

(4) a reasonable margin for profit and contingencies;

(5) the effect on premiums of individual risk variations based on loss or expense considerations; and

(6) any other relevant factor.

(b) A rate or premium established under this subchapter may not be excessive, inadequate, or unfairly discriminatory.

(c) An insurance company may:

(1) group risks by classification to establish rates and minimum premiums; and

(2) modify classification rates to produce rates for individual risks in accordance with rating plans that establish standards for measuring variations in those risks on the basis of any factor listed in Subsection (a).

(d) In setting rates that apply only to policyholders in this state, an insurance company shall use available premium, loss, claim, and exposure information from this state to the full extent that the information is actuarially credible. The insurance company may use experience from outside this state as necessary to supplement information from this state that is not actuarially credible.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 730 (H.B. 2636), Sec. 3B.043(a), eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 9.043(a), eff. September 1, 2007.

Sec. 2053.003. RATE FILING AND SUPPORTING INFORMATION. (a) Each insurance company shall file with the department all rates, supplementary rating information, and reasonable and pertinent supporting information for risks written in this state.

(b) An insurance company may not make a filing described by Subsection (a) more frequently than once every six months.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2053.004. PUBLIC INFORMATION. (a) Each filing made, including any supporting information filed, under this subchapter is public information subject to Chapter 552, Government Code, including any applicable exception from required disclosure under that chapter.

(b) Each year the department shall make available to the

public information concerning the department's general process and methodology for rate review under this chapter, including factors that contribute to the disapproval of a rate. Information provided under this subsection must be general in nature and may not reveal proprietary or trade secret information of any insurer.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 309 (S.B. 978), Sec. 1, eff. September 1, 2015.

Sec. 2053.005. EFFECTIVE DATE OF RATE; HEARING. (a) A filer shall designate the date a rate proposed in a filing made under Section 2053.003 is to take effect. Subject to Subsections (b)-(d), the rate does not take effect until the department receives all necessary information required for the filing.

(b) A filing made under Section 2053.003 takes effect on the date designated by the filer under Subsection (a) unless the department, not later than the 30th day after the date the department receives the filing, notifies the filer that the filing is missing specific required information. The filer must provide the missing information not later than the 30th day after the date the filer is notified under this subsection.

(c) If the filer in good faith believes that information requested under Subsection (b) has already been provided to the department, the filer may request a hearing. The commissioner shall hold the hearing not later than the 30th day after the date the department receives the request for a hearing.

(d) The commissioner shall issue an order not later than the 30th day after the date of the hearing under Subsection (c). If the commissioner determines that the filing is still missing required information, the commissioner shall specify in the order the information that is missing.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2053.006. DISAPPROVAL OF RATE FILING; HEARING. (a)

The commissioner shall disapprove a rate filing made under Section [2053.003](#) if the commissioner determines that the filing does not meet the standards established under this subchapter.

(b) If the commissioner disapproves a rate filing, the commissioner shall issue an order specifying in what respects the filing fails to meet the requirements of this subchapter.

(c) A filer whose rate filing is disapproved is entitled to a hearing on written request made to the department not later than the 30th day after the date the order disapproving the filing takes effect.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. [2017](#)), Sec. 2, eff. April 1, 2007.

Sec. 2053.007. DISAPPROVAL OF RATE; HEARING. (a) The commissioner may issue an order after a hearing disapproving a rate that is in effect. The commissioner must provide the insurance company that filed the rate written notice of the hearing not later than the 10th day before the date of the hearing.

(b) The commissioner shall issue an order disapproving a rate under Subsection (a) not later than the 15th day after the close of the hearing. The order must:

(1) specify in what respects the rate fails to meet the requirements of this subchapter; and

(2) state the date further use of the rate is prohibited.

(c) Repealed by Acts 2007, 80th Leg., R.S., Ch. 730, Sec. 3B.044, eff. September 1, 2007.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. [2017](#)), Sec. 2, eff. April 1, 2007.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 730 (H.B. [2636](#)), Sec. 3B.044, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. [3167](#)), Sec. 9.044, eff. September 1, 2007.

Sec. 2053.008. EFFECT OF DISAPPROVAL ORDER. (a) If a workers' compensation insurance policy is issued and the

commissioner subsequently disapproves the rate or filing that governs the premium charged on the policy, the policyholder may:

- (1) continue the policy at the original rate;
- (2) cancel the policy without penalty; or
- (3) enter into an agreement with the insurance company issuing the policy to amend the policy to reflect the premium that would have been charged based on the insurance company's most recently approved rate.

(b) An amendment under Subsection (a)(3) may not take effect before the date further use of the rate is prohibited under an order issued under Section [2053.007](#).

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. [2017](#)), Sec. 2, eff. April 1, 2007.

Sec. 2053.009. GRIEVANCE. (a) The office of public insurance counsel or an insured who is aggrieved with respect to a filing made under Section [2053.003](#) that is in effect may apply to the department in writing for a hearing on the filing. The application must specify the grounds for the applicant's grievance.

(b) The commissioner shall hold a hearing on an application filed under Subsection (a) not later than the 30th day after the date the department receives the application if the department determines that:

- (1) the application is made in good faith;
- (2) the applicant would be aggrieved as alleged if the grounds specified in the application were established; and
- (3) the grounds specified in the application otherwise justify holding the hearing.

(c) The department shall provide written notice of a hearing under Subsection (b) to the applicant and to each insurance company that made the filing not later than the 10th day before the date of the hearing. The notice must specify:

- (1) which of the grounds specified in the application are in question; and
- (2) whether the insurance company's entire filing will be considered at the hearing or whether the hearing is limited to consideration of the grounds specified in the application.

(d) If, after the hearing, the commissioner determines that the filing does not meet the requirements of this subchapter, the commissioner shall issue an order specifying:

(1) in what respects the filing fails to meet those requirements;

(2) the date the filing is no longer in effect, which must be within a reasonable period that is not less than 60 days after the date the order is issued; and

(3) whether the order applies with respect to all insureds affected by the filing or only with respect to the applicant, if the applicant was an aggrieved insured.

(e) The department shall send copies of the order issued under Subsection (d) to the applicant and each affected insurance company.

(f) An order issued under Subsection (d) does not affect an insurance policy or contract made or issued before the expiration of the period stated in the order.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2053.010. PENALTIES. If a workers' compensation insurance policy is issued and the commissioner subsequently disapproves the rate or filing on which the premium is based, the commissioner, after notice and the opportunity for a hearing, may:

(1) impose sanctions under Chapter 82;

(2) issue a cease and desist order under Chapter 83;

(3) impose administrative penalties under Chapter 84;

or

(4) take any combination of these actions.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 730 (H.B. 2636), Sec. 3B.045(a), eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 9.045(a), eff. September 1, 2007.

Sec. 2053.011. EXCLUSIVE JURISDICTION. The department has exclusive jurisdiction over all rates and premiums subject to this subchapter.

Added by Acts 2007, 80th Leg., R.S., Ch. 730 (H.B. 2636), Sec. 3B.046(a), eff. September 1, 2007.

Added by Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 9.046(a), eff. September 1, 2007.

Sec. 2053.013. REVIEW OF RATES; CONSIDERATION OF OTHER LAW. In reviewing rates under this subchapter, the commissioner shall consider any state or federal legislation that has been enacted and that may impact rates and premiums for workers' compensation insurance coverage in this state.

Added by Acts 2007, 80th Leg., R.S., Ch. 730 (H.B. 2636), Sec. 3B.047(a), eff. September 1, 2007.

Added by Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 9.047(a), eff. September 1, 2007.

SUBCHAPTER A-1. UNDERWRITING GUIDELINES

Sec. 2053.031. DEFINITIONS. In this subchapter:

(1) "Insurance company" has the meaning assigned by Section 2053.001.

(2) "Underwriting guideline" means a rule, standard, guideline, or practice, whether written, oral, or electronic, that is used by an insurance company or its agent to decide whether to accept or reject an application for coverage under a workers' compensation insurance policy or to determine how to classify those risks that are accepted for the purpose of determining a rate.

Added by Acts 2007, 80th Leg., R.S., Ch. 730 (H.B. 2636), Sec. 3B.048(a), eff. September 1, 2007.

Added by Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 9.048(a), eff. September 1, 2007.

Sec. 2053.032. UNDERWRITING GUIDELINES. Each underwriting guideline used by an insurance company in writing workers' compensation insurance must be sound, actuarially justified, or

otherwise substantially commensurate with the contemplated risk. An underwriting guideline may not be unfairly discriminatory.

Added by Acts 2007, 80th Leg., R.S., Ch. 730 (H.B. 2636), Sec. 3B.048(a), eff. September 1, 2007.

Added by Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 9.048(a), eff. September 1, 2007.

Sec. 2053.033. ENFORCEMENT. This subchapter may be enforced in the manner provided by Section 38.003(g).

Added by Acts 2007, 80th Leg., R.S., Ch. 730 (H.B. 2636), Sec. 3B.048(a), eff. September 1, 2007.

Added by Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 9.048(a), eff. September 1, 2007.

Sec. 2053.034. FILING REQUIREMENTS. Each insurance company shall file with the department a copy of the insurance company's underwriting guidelines. The insurance company shall update its filing each time the underwriting guidelines are changed. If a group of insurance companies files one set of underwriting guidelines for the group, the group shall identify which underwriting guidelines apply to each insurance company in the group.

Added by Acts 2007, 80th Leg., R.S., Ch. 730 (H.B. 2636), Sec. 3B.048(a), eff. September 1, 2007.

Added by Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 9.048(a), eff. September 1, 2007.

Sec. 2053.035. APPLICABILITY OF SECTION 38.003. Section 38.003 applies to this subchapter to the extent consistent with this subchapter.

Added by Acts 2007, 80th Leg., R.S., Ch. 730 (H.B. 2636), Sec. 3B.048(a), eff. September 1, 2007.

Added by Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 9.048(a), eff. September 1, 2007.

SUBCHAPTER B. RATE ADMINISTRATION

Sec. 2053.051. HAZARD CLASSIFICATION SYSTEM. (a) For workers' compensation insurance, the department shall:

- (1) determine hazards by class; and
- (2) revise the classification system as necessary to carry out the purposes of this chapter.

(b) A stock company, mutual insurance company, reciprocal or interinsurance exchange, or Lloyd's plan authorized to engage in the business of workers' compensation insurance in this state may not use hazard classifications other than the classifications established by the department.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 558 (S.B. 1336), Sec. 3, eff. September 1, 2019.

Sec. 2053.052. EXPERIENCE RATING PLAN. (a) The commissioner shall adopt a uniform experience rating plan for workers' compensation insurance. The plan must:

- (1) encourage accident prevention; and
- (2) account for:
 - (A) the peculiar hazard and experience of individual risks, past and prospective, inside and outside this state; and
 - (B) any other relevant factor.

(b) The commissioner shall revise the rating plan at least once every five years.

(c) The commissioner may adopt reasonable rules and plans requiring the interchange of loss experience necessary for the application of the rating plan.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2053.054. USE OF INCURRED CLAIMS EXPERIENCE IN FUTURE RATINGS REQUIRED. (a) Regardless of a change in a policyholder's

ownership, control, management, or operations, incurred claims experience must be used in future ratings to ensure that an employer does not evade an unfavorable or high-cost experience.

(b) On application by an affected party, the department may modify a rating under Subsection (a) on proof that a change in a policyholder's management or operations is clearly designed to result in a probable reduction of the insured's loss experience.

(c) The commissioner shall adopt rules necessary to implement this section.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2053.055. RATE ADJUSTMENT. If the commissioner determines that an insurance company's rates do not meet with the standards imposed by Section 2053.002, the commissioner may order the insurance company to adjust the rates to meet those standards. An insurance company may appeal an order under this section in accordance with Subchapter D, Chapter 36.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2053.056. RATE HEARINGS. (a) The commissioner may conduct a public hearing each biennium to review rates to be charged for workers' compensation insurance written in this state. A public hearing under this section is not a contested case as defined by Section 2001.003, Government Code.

(b) Not later than the 30th day before the date of a public hearing conducted under Subsection (a), each insurance company subject to this subtitle shall file the insurance company's rates, supporting information, and supplementary rating information with the commissioner.

(c) The commissioner shall review the information submitted under Subsection (b) to determine the positive or negative impact of the enactment of workers' compensation reform legislation enacted by the 79th Legislature, Regular Session, 2005, on workers' compensation rates and premiums. The commissioner may consider other factors in determining whether a change in rates has impacted

the premium charged to policyholders.

(d) The commissioner shall implement rules as necessary to mandate rate reductions or to modify the use of individual risk variations if the commissioner determines that the rates or premiums charged by insurance companies do not meet the rating standards as defined in this code.

(e) The commissioner shall adopt rules as necessary to mandate rate or premium reductions by insurance companies for the use of cost-containment strategies that result in savings to the workers' compensation system, including use of a workers' compensation health care network health care delivery system, as described by Chapter 1305.

Added by Acts 2007, 80th Leg., R.S., Ch. 730 (H.B. 2636), Sec. 3B.049(a), eff. September 1, 2007.

Added by Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 9.049(a), eff. September 1, 2007.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 42 (S.B. 784), Sec. 1.01, eff. September 1, 2015.

Acts 2019, 86th Leg., R.S., Ch. 558 (S.B. 1336), Sec. 4, eff. September 1, 2019.

SUBCHAPTER C. STATISTICAL PLANS; AGENT

Sec. 2053.101. STATISTICAL PLANS FOR REPORTING LOSS EXPERIENCE AND OTHER DATA. The commissioner shall develop and may periodically modify reasonable statistical plans for workers' compensation insurance to be used by each insurance company in recording and reporting the insurance company's loss experience and other data required by the department, so that the total loss and expense experience of all insurance companies is made available at least annually in the form and detail necessary to assist in determining whether an insurance company's rates meet the standards imposed under Section 2053.002.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2053.102. TREATMENT OF PAYMENTS UNDER STATISTICAL PLAN. A statistical plan developed under Section 2053.101 must require the following payments to be reported separately and not to be considered as a loss or expense for purposes of computing a premium rate modifier or surcharge of an insured:

(1) a direct payment made by an insurance company to influence public policy; and

(2) any amount paid by an insurance company:

(A) as damages in an action against the insurance company for malice or bad faith; or

(B) as a fine or penalty.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2053.103. STATISTICAL AGENT. (a) The commissioner may designate or contract with a qualified organization to serve as the statistical agent for the commissioner under this subchapter as provided by Subchapter E, Chapter 38.

(b) The statistical agent may provide to one or more advisory organizations any information provided by the agent to the commissioner under this subchapter.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

SUBCHAPTER D. REPORTING REQUIREMENTS AND EXCHANGE OF INFORMATION

Sec. 2053.151. WORKERS' COMPENSATION CLAIMS REPORTS AND INFORMATION.

(a) The commissioner by rule shall prescribe the information that must be reported on each workers' compensation claim.

(b) For purposes of Subsection (a), the commissioner shall establish standards and procedures for categorizing insurance and medical benefits required to be reported on each workers' compensation claim to ensure that the data collection methodology will yield data necessary for research and medical cost containment efforts.

(c) The commissioner by rule shall establish reporting

requirements for insurance companies regarding workers' compensation claims. The commissioner may reduce or eliminate reporting requirements for insurance companies whose workers' compensation insurance business falls below a specific minimum premium volume established by the commissioner by rule.

(d) A person may not distribute or otherwise disclose a social security number or any other information collected under Subsection (a) that would disclose the identity of a claimant.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 65 (S.B. 471), Sec. 1, eff. September 1, 2007.

Sec. 2053.152. UPDATE AND TRANSMISSION OF CLAIMS REPORTS.

(a) An insurance company, in accordance with the filing requirements of a statistical plan developed under Section 2053.101, shall update and transmit to the commissioner or the commissioner's statistical agent a claims report filed under Section 2053.151.

(b) Each insurance company that writes at least one-half of one percent of the workers' compensation insurance in this state shall report the company's data in a compatible electronic format prescribed by the commissioner. The commissioner shall take necessary measures to ensure the accuracy of the data and the adequacy of the electronic format for the data.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2053.153. EXCHANGE OF INFORMATION AND CONSULTATION WITH OTHERS. To further the uniform administration of rating laws relating to workers' compensation insurance, the commissioner and each insurance company may:

(1) exchange information and experience data with the National Association of Insurance Commissioners and with insurance supervisory officials, insurance companies, and advisory organizations in other states; and

(2) consult and cooperate with a person or entity described by Subdivision (1) with respect to ratemaking and the application of rating systems.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2053.154. LOSS STATEMENT AND PAYROLL REPORT. (a) For purposes of this section, "insurance company" means a stock company, mutual insurance company, reciprocal or interinsurance exchange, or Lloyd's plan authorized to engage in the business of workers' compensation insurance in this state. The term includes the Texas Mutual Insurance Company.

(b) The department may require an insurance company to submit a sworn statement or report showing:

- (1) the payroll reported to the insurance company;
- (2) incurred losses by classification; and
- (3) other information the department determines may be necessary to implement the department's duties.

(c) The department shall prescribe the necessary forms for a statement or report required by Subsection (b) with consideration of the methods and forms used for similar purposes in other states so that uniformity of statistics will not be affected.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

SUBCHAPTER E. OPTIONAL DEDUCTIBLE PLANS

Sec. 2053.201. DEFINITION. In this subchapter, "insurance company" means a stock company, mutual insurance company, reciprocal or interinsurance exchange, or Lloyd's plan authorized to engage in the business of workers' compensation insurance in this state.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2053.202. ESTABLISHMENT OF OPTIONAL DEDUCTIBLE PLANS.

(a) The department shall require each insurance company writing

workers' compensation insurance in this state to offer at least three optional deductible plans adopted under this section that allow a policyholder to self-insure for the amount of the deductible.

(b) The commissioner by rule shall allow an employer to enter into an agreement with an insurer for a negotiated deductible that exceeds the highest deductible available under a plan described by Subsection (a).

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2053.203. PAYMENT OF CLAIMS; REIMBURSEMENT. (a) An insurance company issuing a deductible policy under this subchapter shall service all claims that arise during the policy period, including those claims payable, wholly or partly, from the deductible amount.

(b) A deductible policy must provide that:

(1) the insurance company issuing the policy shall pay all benefits that are payable from the deductible amount; and

(2) the policyholder shall make reimbursements periodically, rather than at the time claim costs are incurred.

(c) The commissioner shall adopt rules to provide for adequate security for reimbursement of the amount paid by an insurance company that is payable from the deductible amount.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2053.204. RATE REDUCTION. (a) The department shall perform an actuarial analysis to determine the amount of rate reduction applicable to a deductible policy under this subchapter as compared to a standard workers' compensation insurance policy without a deductible.

(b) In years subsequent to the year in which the actuarial analysis described by Subsection (a) is performed, the department shall determine the amount of rate reduction according to rating procedures adopted by the commissioner.

(c) When establishing procedures for the computation of

experience modifiers, the commissioner may allow the exclusion of any claim amount paid under a deductible by an employer.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2053.205. PROHIBITED CONDUCT. A person who is employed by a policyholder who self-insures the deductible amount as provided by this subchapter may not be required to pay any portion of the deductible amount or be harassed, discharged, or otherwise discriminated against because the person, in good faith:

(1) is considering initiating or has initiated a workers' compensation claim;

(2) has retained a representative to represent the person regarding a claim;

(3) has testified or will testify at an administrative or judicial proceeding under Subtitle A, Title 5, Labor Code;

(4) has reported a hazardous working condition or hazardous practice to the Texas Workers' Compensation Commission; or

(5) has taken or is considering taking any other action that may result in a requirement that the policyholder pay a deductible amount through a self-insurance plan.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2053.206. VIOLATION OF SUBCHAPTER. (a) A person commits an administrative violation under Subtitle A, Title 5, Labor Code, if the person engages in conduct that violates this subchapter.

(b) Liability for damages for a violation of this subchapter is determined exclusively under Subtitle A, Title 5, Labor Code.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1162 (H.B. 2605), Sec. 5, eff. September 1, 2011.

SUBCHAPTER F. PREMIUM INCENTIVES AND SURCHARGE
FOR SMALL EMPLOYERS

Sec. 2053.251. DEFINITIONS. In this subchapter:

(1) "Insurance company" means a stock company, mutual insurance company, reciprocal or interinsurance exchange, or Lloyd's plan authorized to engage in the business of workers' compensation insurance in this state.

(2) "Premium" means workers' compensation insurance premium.

(3) "Small employer" means an employer:

(A) who is not experience-rated by the department for workers' compensation insurance purposes; and

(B) whose annual premium is less than \$5,000.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2053.252. PLAN FOR PREMIUM DISCOUNT AND SURCHARGE. The commissioner shall adopt a plan under which each insurance company writing workers' compensation insurance in this state shall:

(1) grant a premium discount to a small employer who qualifies for a discount under this subchapter; and

(2) assess a surcharge as provided by Section 2053.254.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2053.253. ELIGIBILITY FOR PREMIUM DISCOUNT. (a) A small employer who has not experienced a compensable employee lost-time injury during the most recent one-year period for which statistics are available shall receive a discount of 10 percent on the amount of the employer's premium.

(b) A small employer who has not experienced a compensable employee lost-time injury during the most recent two-year period for which statistics are available shall receive a discount of 15 percent on the amount of the employer's premium.

(c) A small employer who has experienced one or more

compensable employee lost-time injuries during the most recent one-year period for which statistics are available is not eligible for a discount on the amount of the employer's premium.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2053.254. ASSESSMENT OF PREMIUM SURCHARGE. A small employer who has experienced two or more compensable employee lost-time injuries during the most recent one-year period for which statistics are available shall be assessed a surcharge of 10 percent on the amount of the employer's premium.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2053.255. MAXIMUM DISCOUNT AND ASSESSMENT. For any annual premium, a small employer may not:

- (1) receive a discount of more than 15 percent; or
- (2) be required to pay a surcharge of more than 10 percent.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2053.256. DISCOUNTS AND SURCHARGES NOT CUMULATIVE. (a) The discounts and surcharges established under this subchapter are not cumulative.

(b) A small employer is entitled to receive the discount under this subchapter in addition to any lesser deviation in the rate used to write an insurance policy under Sections 2053.051 and 2053.052(a) and (b).

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.