



South Carolina Department of Insurance

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BULLETIN NUMBER 2016-02

TO: All Insurers Transacting Workers' Compensation Insurance Business within the State of South Carolina

FROM: Raymond G. Farmer
Director of Insurance 

SUBJECT: Workers' Compensation Loss Cost and Loss Cost Multiplier Adoption/Filing Procedures
Withdrawal of Bulletins 2007-13, 2007-13B, and 2009-18

DATE: July 6, 2016

I. BACKGROUND AND PURPOSE

The National Council on Compensation Insurance (NCCI) is the workers' compensation insurance rating organization in South Carolina. As such, they file prospective loss costs with the South Carolina Department of Insurance (Department) for approval. Once approved by the Department, insurers writing workers' compensation insurance must adopt these loss costs.

This bulletin outlines recent legislative changes as well as procedures for workers' compensation insurers filing loss cost adoptions or loss cost multipliers. This bulletin also withdraws Bulletins 2007-13, 2007-13B, and 2009-18.

II. LEGISLATIVE CHANGES

2016 S.C. Act No. 213 (R. 237, S. 1064) was passed by the South Carolina General Assembly and signed into law by the Governor on June 3, 2016. This bill, which amended Sections 38-73-525 and 38-73-1210 of the South Carolina Code of Laws, became effective upon signature. A copy of Act No. 213 is attached to this bulletin and labeled as Exhibit A.

What follows is an outline of these changes and discussion of the impact on workers' compensation insurers.

1. Section 38-73-525

Workers' compensation insurers are required to make a filing to adopt new loss costs within 60 days of the approval date of those loss costs. The effective date of this adoption must be within 120 days of NCCI's effective date of the approved loss costs. Any such filing is not considered to be a rate filing and is informational. However, insurers may submit a loss cost adoption as a part of a rate filing for new or revised loss cost multipliers (LCMs). LCMs, when filed alone or in combination with a loss cost adoption, continue to be subject to prior approval, and the review time has been extended from 30 to 60 days.

All loss cost adoption filings, LCM filings, or a combination thereof must be made according to the guidelines outlined in Section III of this bulletin.

2. Section 38-73-1210

Subsection (A)(1) no longer applies to workers' compensation insurance. Instead, Subsection (A)(2) has been added to address workers' compensation specifically. This new text clarifies that the loss cost adoption and LCM filings required by Section 38-73-525 must be made by the insurer, notwithstanding any filings made by NCCI.

III. PROCEDURAL REQUIREMENTS RELATING TO FILINGS

Section 38-73-525 requires the director or his designee to prescribe the form and manner of loss cost adoption and LCM filings. The form and manner of such filings is prescribed on the Department's [Property & Casualty webpage](http://www.doi.sc.gov/432/Property-Casualty) (<http://www.doi.sc.gov/432/Property-Casualty>). This page provides relevant information, links, and updates to aid insurers in preparing rate, rule, and form filings. It also contains the Department's workers' compensation actuarial exhibits as well as video tutorials to aid in their completion. These exhibits outline what items must be completed and included with workers' compensation loss cost adoption filings, LCM filings, or concurrent loss cost adoption and LCM filings. The exhibits can also be found in SERFF and incorporate Forms 2007-A, 2009-A, and 2009-B which have been required by the Department in the past.

The Department recommends that insurers check the Property & Casualty webpage as well as the filing requirements and general instructions in SERFF each time a filing is made since they are updated regularly. Additionally, insurers are strongly encouraged to subscribe to the Department's [notifications service](http://www.doi.sc.gov/list.aspx) (<http://www.doi.sc.gov/list.aspx>) which is used to share updates on topics selected by the user.

IV. WITHDRAWAL OF BULLETINS 2007-13, 2007-13B AND 2009-18

This bulletin supersedes and replaces Bulletins 2007-13, 2007-13B, and 2009-18. Bulletins 2007-13, 2007-13B, and 2009-18 are hereby withdrawn.

V. QUESTIONS

Questions regarding this Bulletin should be submitted via email to p&cmail@doi.sc.gov and include complete contact information (with phone number and email address) for follow up.

Bulletins are the method by which the Director of Insurance formally communicates with persons and entities regulated by the Department. Bulletins are Departmental interpretations of South Carolina insurance laws and regulations and provide guidance on the Department's enforcement approach. Bulletins do not provide legal advice. Readers should consult applicable statutes and regulations or contact an attorney for legal advice or for additional information on the impact of that legislation on their specific situation.

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Exhibit A: 2016 S.C. Act No. 213 (R. 237, S. 1064)

(SEE THE FOLLOWING 3 PAGES)

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South Carolina General Assembly
121st Session, 2015-2016

A213, R237, S1064

STATUS INFORMATION

General Bill

Sponsors: Senators Young and Rankin

Document Path: I:\s-res\try\016work.dmr.try.docx

Introduced in the Senate on February 4, 2016

Introduced in the House on April 13, 2016

Last Amended on April 7, 2016

Passed by the General Assembly on June 2, 2016

Governor's Action: June 3, 2016, Signed

Summary: Insurers writing workers' compensation policy

HISTORY OF LEGISLATIVE ACTIONS

Date	Body	Action Description with journal page number
2/4/2016	Senate	Introduced and read first time (Senate Journal-page 5)
2/4/2016	Senate	Referred to Committee on Banking and Insurance (Senate Journal-page 5)
4/6/2016	Senate	Committee report: Favorable with amendment Banking and Insurance (Senate Journal-page 8)
4/7/2016	Senate	Committee Amendment Adopted (Senate Journal-page 32)
4/7/2016	Senate	Read second time (Senate Journal-page 32)
4/7/2016	Senate	Roll call Ayes-37 Nays-0 (Senate Journal-page 32)
4/12/2016	Senate	Read third time and sent to House (Senate Journal-page 13)
4/13/2016	House	Introduced and read first time (House Journal-page 4)
4/13/2016	House	Referred to Committee on Judiciary (House Journal-page 4)
5/24/2016	House	Committee report: Favorable Judiciary (House Journal-page 11)
5/31/2016	House	Requests for debate-Rep(s). JE Smith, Cobb-Hunter, Bernstein, Ott, King, Ridgeway, Neal, Robinson-Simpson, Dilliards, Weeks (House Journal-page 16)
6/1/2016	House	Read second time (House Journal-page 119)
6/1/2016	House	Roll call Yeas-89 Nays-0 (House Journal-page 119)
6/2/2016	House	Read third time and enrolled (House Journal-page 41)
6/2/2016		Ratified R 237
6/3/2016		Signed By Governor
6/9/2016		Effective date 06/03/16
6/9/2016		Act No. 213

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VERSIONS OF THIS BILL

[2/4/2016](#)

[4/6/2016](#)

[4/7/2016](#)

[4/7/2016-A](#)

[5/24/2016](#)

(A213, R237, S1064)

AN ACT TO AMEND SECTION 38-73-525, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO RATE FILING REQUIREMENTS, SO AS TO REQUIRE AN INSURER WRITING WORKERS' COMPENSATION INSURANCE TO ADOPT LOSS COSTS WITHIN A CERTAIN TIME FRAME, TO REQUIRE AN INSURER TO FILE ITS MULTIPLIER FOR EXPENSES, ASSESSMENTS, PROFIT AND CONTINGENCIES SIXTY DAYS BEFORE USING A NEW MULTIPLIER; AND TO AMEND SECTION 38-73-1210, RELATING TO FILING REQUIREMENTS FOR RATING ORGANIZATION MEMBERS, SO AS TO ESTABLISH THAT AN INSURER WRITING WORKERS' COMPENSATION INSURANCE MAY SATISFY ITS FILING OBLIGATION BY BECOMING A MEMBER OF OR SUBSCRIBER TO A LICENSED RATING ORGANIZATION.

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

Workers' Compensation Insurance, loss cost and multiplier filings

SECTION 1. Section 38-73-525 of the 1976 Code is amended to read:

“Section 38-73-525. (A) Each insurer writing workers' compensation insurance shall adopt the most recent loss costs within sixty days after approval of these loss costs. This loss costs adoption must become effective no later than one hundred twenty days after the effective date of the approved loss costs. An insurer must notify the department of its adoption of the most recently approved loss costs by filing a notification on a form and in a manner prescribed by the director or his designee. The notification filing required by this subsection does not constitute a rate filing and is not subject to prior approval.

(B)(1) At least sixty days before using a new multiplier for expenses, assessments, profits, and contingencies, each insurer writing workers' compensation 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. A copy of the filing must be provided simultaneously to the consumer advocate.

(2) Filings submitted pursuant to item (1) must be filed on a form and in the manner prescribed by the director or his designee and 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; a provision for profit and contingencies, and the date of approval of the loss costs to which the multiplier is applied, which must be the most recently approved loss costs.

(3) Filings submitted pursuant to item (1) are subject to approval of the director or his designee and 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.

(4)(a) Within the sixty-day period, if the director or his designee believes the information filed is not complete, the director or his designee shall notify the insurer of additional information to be provided. Within fifteen days of receipt of the notification, the insurer shall provide the requested information or file for a hearing challenging the reasonableness of the director's or his designee's request. The burden is on the insurer to justify the denial of the additional information.

(b) Unless a hearing is requested, upon expiration of the sixty-day period or the fifteen-day period, whichever is later, the insurer may use the multiplier for expenses, assessments, profit, and contingencies.”

Workers' Compensation Insurance, rating organization requirement

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

“Section 38-73-1210. (A)(1) This item applies to property and casualty insurance but does not apply to workers' compensation insurance. An insurer may satisfy its obligation to make required 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 another provision of this article, a member or subscriber, within twelve months after its membership or subscribership, may not file to adopt a rate approved for use for the rating organization if the rate is more than the rate in use by the member or subscriber before its membership or subscribership in the rating organization. Further, notwithstanding the provisions of Sections 38-73-1300 and 38-73-1310, 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. Nothing contained in this chapter may be construed to require an insurer to become a member of or a subscriber to a rating organization.

(2) This item applies to workers' compensation insurance. An insurer may satisfy its obligation to make required filings by becoming a member of, or a subscriber to, a licensed rating organization that makes filings and by authorizing the director or his designee to accept the filings on its behalf. However, a licensed rating organization may not satisfy the insurer's obligation to make filings required pursuant to Section 38-73-525.

(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."

Time effective

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

Ratified the 2nd day of June, 2016.

Approved the 3rd day of June, 2016.
