Ontario
Home Builders'
Association

20 Upjohn Rd., Suite 101
North York, Ontario
M3B 2V9
www.ohba.ca

(416) 443-1545
Toll Free 1-800-387-0109
Fax: (416) 443-9982
info@ohba.ca

January 8, 2016

Mr. David Marshall
WSIB President and CEO
200 Front Street West, 17th Floor
Toronto, ON M5V 3J1

Dear Mr. Marshall

Thank you for your service at WSIB over the past 6 years as you led the organization through a period of modernization. OHBA commends you on your dedication to solidifying the financial stability of the organization which has improved dramatically since you took on your role.

I would like to commend you in particular on your leadership on the Rate Framework Reform policy consultation. As you are aware, OHBA is enthusiastically supportive of the Rate Framework Reform and its main policy objective of consolidating rate groups based on predominant business activity. This change would address a significant inequity found in the construction sector. Currently home builders pay approximately twice as much compared to builders of industrial, commercial and institutional (ICI) buildings even though the building process, building code, and tradespeople are often the same. As you would be aware, the WSIB Premium Rate for residential construction is more than twice as high as the Canadian average workplace safety compensation premium rate and 4.5 times higher than residential workplace insurance rates in Alberta. The majority of jurisdictions in Canada also have the same premium rate for both residential and non-residential building activity.

The consolidation of rate groups is a priority issue for OHBA which is a main component of the proposed Rate Framework. We applaud the creation of rate group 'G1 Building Construction' which combines all construction building activity in a single rate group.

OHBA was buoyed by recent actuarial analysis released by WSIB on December 31, 2015, "Rate Framework Modernization" which revealed a statistically similar risk profile for residential and non-residential construction. The updated rate framework risk disparity analysis showed that for G1 Building Construction there is only a 0.6% difference in the risk profile between residential and non-residential building construction. As your analysis concludes: *"subclasses G11 [residential] and G12 [non-residential] do not meet the risk disparity rule (difference is greater than +/- 20%), and there is minimal risk disparity between the two subclasses"* and that *"subclasses G11 and G12 meet the actuarial predictability threshold of $12.0B in IE or $6.0 billion in insurable earnings in order to set a reliable premium rate."* This analysis is consistent with our position in our 2014 OHBA Annual Meeting of

Members resolution (attached) along with our submission from October 2015 on the Rate Framework Reform consultation package (attached). OHBA believes that evidence-based decision-making should form the basis of any policy changes and we support the significant actuarial and statistical analysis WSIB has undertaken as part of this consultation.

We look forward to WSIB concluding this consultation and moving the new rate framework forward towards an implementation phase.

Respectfully,

Joe Vaccaro
Chief Executive Officer
Ontario Home Builders' Association

Attached: (1) OHBA 2014 AMM Resolution; (2) OHBA Rate Framework Submission; (3) WSIB Rate Framework Modernization: Risk Disparity Analysis - G1 Building Construction

cc: Elizabeth Witmer, WSIB Chair
Kate Lamb, WSIB, Vice President, Policy and Consultation Services
Diane Weber, WSIB, Director, Chair's Office
Jean-Serge Bidal, WSIB, Executive Director, Strategic Revenue Policy
Scott Bujeya, WSIB, Executive Assistant to President

RESOLUTION #10 (External)

Submitted to: Ministry of Labour
Workplace Safety and Insurance Board

Submitted by: OHBA Health and Safety Committee

Date: September 22, 2014

Subject: WSIB Rate Group Modernization

Whereas: the WSIB Premium Rate for residential construction is more than twice as high as the Canadian average workplace safety compensation premium rate and 4.5 times higher than workplace insurance rates in Alberta; and

Whereas: WSIB Premiums in the home building and renovation sector are at such a high rate that they incent many consumers to purchase construction services with firms that operate in the underground economy. These contractors work for 'cash' deals and do not pay WSIB Premiums or other federal, provincial and municipal taxes and levies; and

Whereas: Ontario WSIB rate groups operate under an antiquated and outdated system to separate 'risk' categories for different industries into an unwieldy and confusing structure of 155 rate groups and over 800 classification units; and

Whereas: The WSIB has already consulted extensively on rate group reforms for over four years, beginning with the establishment of the *Harry Arthurs Panel* in September 2010 which issued a report, *Funding Fairness* in 2012 and a more focused stakeholder consultation throughout 2013, chaired by Douglas Stanley, which published *The Case For Change* report in early in 2014; and

Whereas the *Arthurs Report* concluded that the present system "rests on a foundation of anachronisms and ambiguities" and Stanley argued for the "consolidation of rate groups from the current 155 down to 20 or 25 groups"; and

Whereas: the majority of provinces have consolidated rate groups and have merged the home building rate group with the institutional, commercial and industrial rate group; and

Whereas: Ontario home builders pay twice as much in WSIB premiums compared to institutional, commercial, industrial rate groups despite the fact that the building process, trades, and building code often are often identical for both sectors; and

Whereas: the WSIB needs to show leadership and tackle the fairness issue that negatively impacts housing affordability, the underground economy, and business fairness in Ontario.

Therefore be it resolved that: WSIB expeditiously create a targeted plan on merging rate groups over the short term with clear timelines as per the recommendations by the Douglas Stanley's *The Case For Change* report.

MOVED: D. Murray SECONDED: D. VanMoorsel

CARRIED

Ontario
Home Builders'
Association

WSIB RATE FRAMEWORK REFORM

BILD
Bluewater
Brantford
Chatham-Kent
Cornwall
Greater Dufferin
Durham Region
Grey-Bruce
Guelph & District
Haldimand-Norfolk
Haliburton County
Hamilton-Halton
Kingston-Frontenac
Lanark-Leeds
London
Niagara
North Bay & District
Greater Ottawa
Oxford County
Peterborough & the Kawarthas
Quinte
Renfrew
Sarnia-Lambton
Saugeen County
Simcoe County
St. Thomas-Elgin
Stratford & Area
Sudbury & District
Thunder Bay
Waterloo Region
Windsor Essex

Submitted to: **WORKPLACE SAFETY AND INSURANCE BOARD**
October 2, 2015

ABOUT OHBA

The Ontario Home Builders' Association is the voice of the building, land development and professional renovation industry in Ontario representing 4,000 member companies organized into 30 local associations across the province. Our members have built over 700,000 homes in the last ten years in over 500 Ontario communities. The industry contributes over $45 billion to Ontario's economy, employing over 300,000 people across the province.

OHBA is committed to improving new housing affordability and choice for Ontario's new home purchasers and renovation consumers by positively impacting provincial legislation, regulation and policy that affect the industry. Our comprehensive examination of issues and recommendations are guided by the recognition that choice and affordability must be balanced with broader social, economic and environmental issues.

INTRODUCTION

OHBA is pleased to comment on the Rate Framework Reform Analysis. OHBA is enthusiastically supportive of the main policy recommendation described in the proposal – the consolidation of rate groups based on predominant business activity. This change would settle a significant inequity found in the construction sector. Currently homebuilders pay around twice as much compared to builders of industrial, commercial and institutional (ICI) buildings even though the building process, building code, and tradespeople can be identical. In many cases, the only differentiating factor between our sectors is the end user. Because of this, merging similar rate groups makes conceptual sense and we are not surprised that WSIB's own statistical analysis comparing homebuilding with ICI work shows the safety records between these sectors is almost identical.

POLICY ENVIRONMENT

Over the past five years, OHBA has put forward three resolutions at our Annual Meeting of Members (AMM) related to WSIB. As seen by two of the more recent AMM resolutions, OHBA and our 30 local home builder associations have been at odds with certain WSIB policy changes that relate to independent operators in construction.

- ***2009 – Resolution 8, "Mandatory Coverage, WSIB:*** *Requested the Ministry of Labour withdraw regulations as established in Bill 119, Workplace Safety and Insurance Amendment Act, 2008.*

- ***2013 – Resolution 8, "Proposed Changes to WSIB Rate Groups in Response to Mandatory WSIB Coverage:*** *Requested that the WSIB create a separate rate group for independent operators and executive officers 'on the tools' that takes into consideration market realities prior to Bill 119 and creates market-competitive rates that is established at one-third of the current rate group.*

For OHBA members, the government's decision to pass Bill 119, *Workplace Safety and Insurance Amendment Act, 2008* and the subsequent WSIB implementation policies created significant problems for residential construction. Across Ontario, our members that operated small business argued that this new policy was unduly costly to their business, adding a duplicative insurance system that was more expensive and less comprehensive than their private insurance coverage which covered them 24 hours a day, 7 days a week, both on and off the jobsite. The type of work performed by owners 'on the tools' along with WSIB's return to work and claims policies would also make it far less likely that an independent operator would ever file a claim compared to their workers.

We continue to believe that this new policy created new incentives for small business to enter the underground economy, sometimes adding an $8,000 additional cost to a small business. OHBA continues to hold our position from 2009 – that this policy did nothing to improve health and safety in construction and may actually push some independent operators off the grid completely. In fact, this change might actually make more contractors and their consumers more vulnerable to some of the negative consequences of the underground 'cash' economy.

DEFENDING FAIRNESS IN BILL 119

RECOMMENDATION: RESPECTING THE HOME RENOVATION EXEMPTION

The new rate framework reform's potential legislative and regulatory changes to merge rate groups might pressure the WSIB to advocate to government that the home renovation exemption found in Bill 119 should be eliminated.

While OHBA continues to oppose Bill 119, we support the exemptions in place for independent operators and sole proprietors who perform home renovation work. This important legislated exemption recognizes the unique characteristics of the home renovation contractor and should be respected should there be any changes to WSIB related legislative statutes.

RECOMMENDATION: MAINTAINING RATE GROUP 755: NON-EXEMPT PARTNERS AND EXECUTIVE OFFICER IN CONSTRUCTION

With the consolidation of rate groups, it is anticipated that Rate Group 755 will be eliminated and merged into the new construction rate groups. RG 755 was created in 2012 during the Bill 119 implementation period. OHBA views the creation of this rate group as a compromise position by WSIB to satisfy stakeholders supportive of Bill 119, but not supportive of elements that impacted their membership. While this group undoubtedly has a different risk relative to their workers, so to do all employers that were captured by Bill 119.

The potential elimination of this group provides an opportunity for a new dialogue around the merits, successes and potential changes around Bill 119. OHBA proposes re-examining how WSIB policies relate to *all* those affected by Bill 119 and would welcome a new conversation.

STANLEY REPORT DEMONSTRATES 'THE CASE FOR CHANGE'

While OHBA member experience with WSIB has been focused on Bill 119 over the past few years, we have fully participated in the discussion around rate group changes to industry. We were pleased that Douglas Stanley, who was tasked with making improvements to the rate system, listened to our comments around rate group consolidation and the unfairness embedded in the current system. OHBA formally endorsed his main recommendation around consolidation at the 2014 AMM.

- ***2014: Resolution 10, WSIB Rate Group Modernization:*** *Requested that the WSIB expeditiously create a targeted plan on merging rate groups over the short term with clear timelines as per the recommendations by the Douglas Stanley's The Case For Change report.*

The Need to Expedite the Process:

It is worth noting the significant amount of time WSIB has been consulting rate group reform. For more than five years there have been two policy papers on this topic. The first, issued by Harry Arthurs, who along with John Tory and Buzz Hargrove began meeting with stakeholders, industry representatives, and workers beginning September 2010. Based on those numerous public stakeholder submissions, Mr. Arthurs issued "Funding Fairness" in 2012 that concluded our current WSIB system "rests on a foundation of anachronisms and ambiguities" and recommended further study for change.

Douglas Stanley picked up on some of the themes and launched into a more focused consultation, resulting in his "Case For Change" report in early 2014. That paper called for a "consolidation of rate groups from the current 155 down to 20 or 25 groups". This new consultation launched by WSIB in March 2015 now (hopefully) concludes an over 5 year process that likely cumulatively incorporates hundreds of hours of stakeholder discussion and debate and hundreds of stakeholder submissions.

Any additional delay in moving towards a modern system is hurting Ontario's economic competitiveness and the credibility of the WSIB to be viewed as a modern and responsive workplace safety and insurance system. According to WSIB's data, under the new system approximately 74% of employers would be projected to see premium rate decreases and 26% would be projected to see premium rate increases. WSIB should not continue a system where poor performing employers are being subsidized by companies and sectors that are investing in workplace health and safety. It is not in the public interest or the economic competitiveness of the province to keep delaying these recommendations.

The WSIB through its extensive consultative processes has clearly demonstrated that the current system is not working and WSIB has created workable alternative. WSIB should move forward as soon as practicable to implement these changes.

CONTINUING INEQUITIES THROUGH 'RATE FREEZES'

The current practice at WSIB to issue no rate changes over the past few years has been to the detriment of positive performing rate groups across WSIB. While WSIB did issue an across-the-board rate increase in 2012, the board has held the line on rates from 2013-2016. This means there will be 5 years of rates with no actuarial consideration whether some rate groups should be paying more or less based on the injury claims within their sectors.

This policy of across-the-board rate changes might be easy for WSIB to administer, but it has been unfair to certain sectors, like home building, that have made significant improvements to their health and safety record. Since 2002, home builders (RG 764) have lowered their lost time injury rate by 64.3% If the WSIB policy continues to maintain the system with no changes, it is not only unfair to home building based on our comparative record, but also new home owners.

Our industry is cost sensitive to any new government imposed fees and charges, since it is ultimately the families that are buying new homes in communities across Ontario that end up paying. For other construction employers, their customer is predominantly municipal, provincial or federal governments that have no alternative but to pay for infrastructure with a higher WSIB rate embedded in the cost. Due to home builders' significant improvements in safety, a growing proportion of the 764 rate group now goes towards the UFL compared to injury claims. Therefore it is the new home buyer that is disproportionately paying down the WSIB's unfunded liability and cross-subsidizing poorer performing sectors.

This continued inequity and burden on new home buyers adds to the importance of implementing this new rate framework proposal as soon as practicable.

THE PATH FORWARD

RECOMMENDATION: BEGIN NEW CONSOLIDATED SYSTEM IN 2017

WSIB has prepared stakeholders and employers for these changes through a lengthy consultative process over the past several years. According to presentations by WSIB staff, the earliest any changes could occur is in 2018. In addition, WSIB has suggested that an individual company's premium rate could only move 15% positively or negatively before they reach their 'target' rate. This means that for some employers in our sector that are paying a rate of $9.10, this move towards their 'actual' target rate of $5.22 for G1 Building Construction would not occur for 5 years – or 2023. Based on the actuarial freezing of rates established in 2012, this would mean a decade of business activity in our sector with outdated and inaccurate rates.

The slower the implementation process, the more beneficial this is to the minority of poorly performing companies in the system that are being subsidized by the 74% of companies who deserve a premium rate decrease. Therefore the WSIB should switch to a new consolidated system as soon as possible, migrating employers to their designated risk band within their new rate group. This migration should only be considering the companies associated ‘risk’. No weighting should be given towards the current rate paid by the employer considering the arbitrary and unfair nature of the current rate group structure.

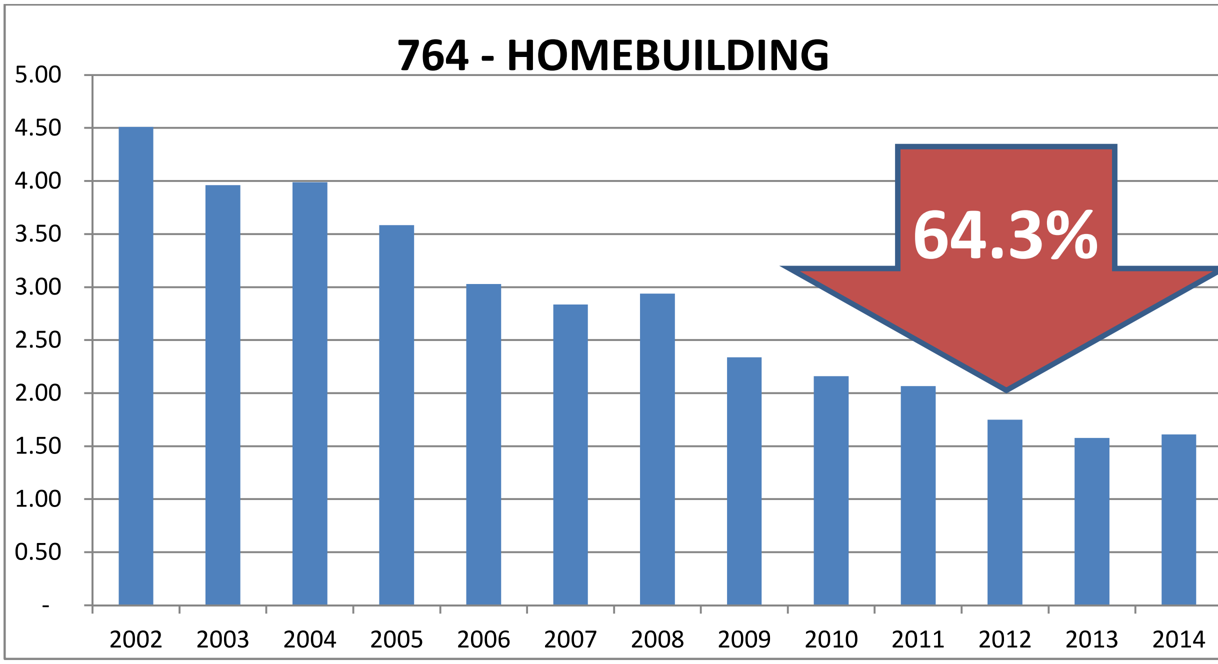
RECOMMENDATION: SEPARATE UNFUNDED LIABILITY COMPONENT OF PREMIUM RATE

Employers paying WSIB are likely unaware that a significant component of the premiums they pay go towards the unfunded liability (UFL). According to WSIB, the UFL can make up about 40% of a premium rate for some employers. WSIB estimates that the UFL may be eliminated as soon as 2021. OHBA recommends that separating the UFL component would add transparency to employers to better understand what their premiums go towards. More importantly, it would allow WSIB to eliminate the UFL portion of the premium rate immediately when the UFL is eliminated.

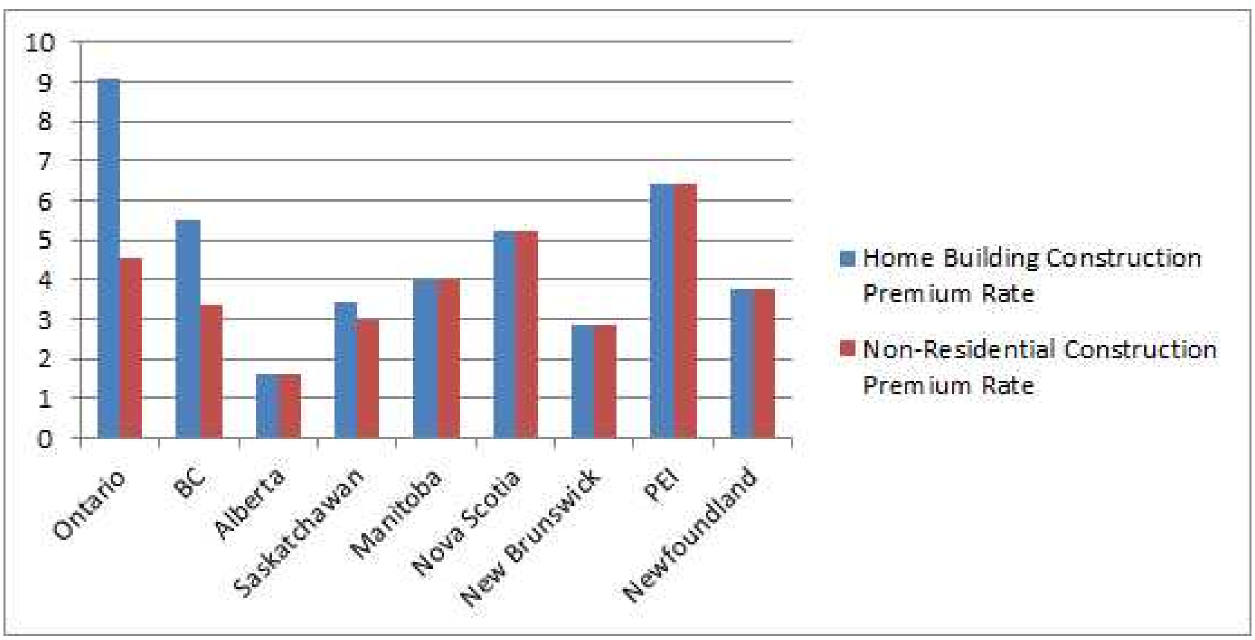
CONCLUSION

OHBA looks forward to assisting WSIB in the implementation of the policy and would be pleased to extend any opportunities for dialogue and communication with our network of 30 local home building associations and 4000 member companies involved in all aspects of the home building and renovation industries. We appreciate the openness, hard work and transparency by WSIB staff and we look forward to continuing our positive working relationship on this file.

WSIB LOST TIME INJURY RATE



ONTARIO HOME BUILDERS HAVE HIGHEST PREMIUM RATES IN CANADA



Source: Association of Workers' Compensation Boards of Canada

RESOLUTION # 8 (External)

Submitted to: Chair WSIB
Ministry of Labour

Submitted by: OHBA Health and Safety Committee

Date: September 21, 2009

Subject: Mandatory Coverage, WSIB

Whereas: OHBA has consistently stated its objections regarding mandatory coverage of WSIB for those currently exempted; and

Whereas: this legislation will only increase underground activity in the renovation industry as it adds a significant cost to operate legitimately; and

Whereas: OHBA supports the principle that all workers on a construction site should have a minimum level of insurance coverage, be it WSIB or private insurance. OHBA supports a 'named insured' regulatory system where all workers would be required to carry some form of insurance coverage; and

Whereas: many OHBA members prefer to keep their private insurance as it covers them 24 hours a day, 7 days a week at more competitive pricing; and

Whereas: moving to a named-insured system would provide the constructor with an accurate list of all workers on the construction site with WSIB coverage; and

Whereas: Bill 119, Workplace Safety and Insurance Amendment Act, 2008, proposes to make workers' compensation coverage mandatory for independent operators, sole proprietors, partners in partnership and executive officers of corporations working in construction; and

Whereas: the exemptions created under the act for Executive Officers, currently defined under *Ontario Regulation 47/09* as "One partner in a partnership carrying on business in construction or one executive officer of a corporation carrying on business in construction is exempt from compulsory coverage if the partner or EO does not perform any construction work" is completely inadequate and represents a cash grab for white collar workers that encounter a significantly less risk of injury than those on-site;

Therefore be it resolved that: the Ministry of Labour withdraw the new regulations as established in Bill 119, Workplace Safety and Insurance Amendment Act, 2008 which are to go into effect January 1, 2012 and institute a more flexible 'named insured' system of regulating the construction industry.

MOVED: J. Westgate SECONDED: M. Pryce

CARRIED

DRAFT RESOLUTION # 8 (External)

Submitted to: Ministry of Labour
Workplace Safety and Insurance Board

Submitted by: OHBA Board of Directors

Date: September 23, 2013

Subject: Proposed Changes to WSIB Rate Groups In Response to Mandatory WSIB Coverage

---

Whereas: Unlike other industry associations, OHBA has been and continues to be opposed to mandatory WSIB coverage for independent operators (IOs), partners in partnership and executive officers (EOs); and

Whereas: Policies from Bill 119 will not make workplaces safer and instead may increase the size of the underground economy activity due to these costly new legislated requirements; and

Whereas: Mandatory WSIB coverage is an unnecessary significant new cost burden on entrepreneurs and job creators that work on the tools; and

Whereas: Prior to mandatory coverage IOs and EOs had 24/7 coverage in private insurance that was significantly less expensive; and

Whereas: Through the operationalization and creation of policies around Bill 119, the WSIB wrongly worked under the assumption that owners "on the tools" have the same risk profile as their employees as owners are currently paying the same premium rate; and

Whereas: This assumption is wrong as return-to-work policies and sensitivity to experience rating as well as the type of work owners perform lends itself to less risk than construction employees; and

Whereas: OHBA continues to believe that mandatory coverage should be abolished; and

Whereas: OHBA is an association that provides government with pragmatic, practical advice that recognizes the political realities of the day.

Therefore be it resolved that: The WSIB create a separate rate group for independent operators and executive officers 'on the tools' that takes into consideration market realities prior to Bill 119 and creates market-competitive rates that is established at one-third of the current rate group. All newly captured IOs and EOs should pay a premium rate equal to one-third of the construction rate group they fall into. This should act as the standard for a five year period. After this time, WSIB should have the data to determine the true experience rating of IOs and EOs in construction. The chart illustrates what the rate group structure would look like based on the 2014 Premium Rates.

	Rate Group	2014 Premium Rate	OHBA Proposal For IOs, and EOs “performing construction”
704	Electrical And Incidental Construction Services	3.69	1.23
707	Mechanical And Sheet Metal Work	4.16	1.39
711	Roadbuilding And Excavating	5.29	1.76
719	Inside Finishing	7.51	2.5
723	Industrial, Commercial & Institutional Construction	4.55	1.52
728	Roofing	14.80	4.93
732	Heavy Civil Construction	7.03	2.34
737	Millwrighting And Welding	6.90	2.3
741	Masonry	12.70	4.23
748	Form Work And Demolition	18.31	6.1
751	Siding And Outside Finishing	10.25	3.42
755	Non-Exempt Partners and Executive Officers in Construction	0.21	0.21
764	Homebuilding	9.10	3.33

MOVED: James Bazely SECONDED: Larry Otten

CARRIED

RESOLUTION #10 (External)

Submitted to:	Ministry of Labour Workplace Safety and Insurance Board
Submitted by:	OHBA Health and Safety Committee
Date:	September 22, 2014
Subject:	WSIB Rate Group Modernization

Whereas: the WSIB Premium Rate for residential construction is more than twice as high as the Canadian average workplace safety compensation premium rate and 4.5 times higher than workplace insurance rates in Alberta; and

Whereas: WSIB Premiums in the home building and renovation sector are at such a high rate that they incent many consumers to purchase construction services with firms that operate in the underground economy. These contractors work for 'cash' deals and do not pay WSIB Premiums or other federal, provincial and municipal taxes and levies; and

Whereas: Ontario WSIB rate groups operate under an antiquated and outdated system to separate 'risk' categories for different industries into an unwieldy and confusing structure of 155 rate groups and over 800 classification units; and

Whereas: The WSIB has already consulted extensively on rate group reforms for over four years, beginning with the establishment of the *Harry Arthurs Panel* in September 2010 which issued a report, *Funding Fairness* in 2012 and a more focused stakeholder consultation throughout 2013, chaired by Douglas Stanley, which published *The Case For Change* report in early in 2014; and

Whereas the *Arthurs Report* concluded that the present system "rests on a foundation of anachronisms and ambiguities" and Stanley argued for the "consolidation of rate groups from the current 155 down to 20 or 25 groups"; and

Whereas: the majority of provinces have consolidated rate groups and have merged the home building rate group with the institutional, commercial and industrial rate group; and

Whereas: Ontario home builders pay twice as much in WSIB premiums compared to institutional, commercial, industrial rate groups despite the fact that the building process, trades, and building code often are often identical for both sectors; and

Whereas: the WSIB needs to show leadership and tackle the fairness issue that negatively impacts housing affordability, the underground economy, and business fairness in Ontario.

Therefore be it resolved that: WSIB expeditiously create a targeted plan on merging rate groups over the short term with clear timelines as per the recommendations by the Douglas Stanley's *The Case For Change* report.

MOVED: D. Murray SECONDED: D. VanMoorsel

CARRIED

Risk Disparity Analysis – G1 Building Construction

- Class **G1 Building Construction** (NAICS # 236) is based on the experience of:
  - G11: Residential Building Construction (NAICS # 2361)
  - G12: Non-residential Building Construction (NAICS # 2362)

NAICS #	Class Description	Insurable Earnings 6 years ($B)	Claims Costs 6 years ($M)	Subclass Risk Profile	Class G1 Risk Profile	Difference
2361	Residential Building Construction	7.142	36.832	0.516	0.514	0.3%
2362	Non-residential Building Construction	8.447	43.296	0.513	0.514	-0.3%
	Total	15.589	80.129	0.514		

- Subclasses G11 and G12 do not meet the risk disparity rule (difference is greater than +/-20%), and there is minimal risk disparity between the two subclasses.
- Subclasses G11 and G12 meet the actuarial predictability threshold of $12.0B in IE or $6.0B in IE and $15.0M in CC in order to set a reliable premium rate.
- Consequently, this Class should not be expanded into further subclasses.