TEXAS DEPARTMENT OF INSURANCE
EXEMPT FILING NOTIFICATION PURSUANT TO TEXAS INSURANCE CODE
CHAPTER 5, SUBCHAPTER L, ARTICLE 5.96

**ADOPTION OF AMENDMENTS TO THE *TEXAS BASIC MANUAL OF RULES,
CLASSIFICATIONS AND EXPERIENCE RATING PLAN FOR WORKERS'
COMPENSATION AND EMPLOYERS' LIABILITY INSURANCE***

The commissioner of insurance adopts the amendments proposed by the April 5, 2013, petition filed by Liberty Mutual Insurance and its group affiliates (Reference No. W-0413-01). The petition requests that the commissioner amend the *Texas Basic Manual of Rules, Classifications and Experience Rating Plan for Workers' Compensation and Employers' Liability Insurance* to allow insurance carriers to file and use modeled rating factors to calculate their premiums. The petition specifies proposed amendments to Rule III E (Policy Preparation), Rule VII B (Premium Discount), and Appendix A (Procedures), and the addition of Rule VI M (Modeled Rating Factor) to the *Basic Manual*. The petition requests that the proposed amendments be effective 30 days after notice of the adoption is published in the *Texas Register*. The commissioner adopts the amendments with one editorial change to the proposed text.

TDI published notice of the proposal in the June 7, 2013, issue of the *Texas Register* (38 TexReg 3655). TDI received no comments and no requests for a hearing on the proposal.

The commissioner adopts the following amendments to the manual:

The amendments to Rule III E add a modeled rating factor (MRF) to the calculation of the total estimated policy cost of a workers' compensation policy. The MRF applies to the estimated modified premium to produce the estimated modified/modeled rating premium. The amendments also renumber the steps in calculating the total estimated policy cost.

The amendment to Rule VII B updates the definition of standard premium to include modeled rating. The amendment to Appendix A updates the list of items on the information page of the policy to include the MRF, if applicable, and re-letters the items in the list.

The amendments to Rule VI add section M (Modeled Rating Factor), which provides an explanation of the MRF, describes its application, and lists the insurance carrier's requirements to use the MRF. The commissioner has deleted the word "factor" after "MRF" in Rule VI, new section M.2.c, as proposed, because it is duplicative.

The MRF is an optional factor that insurance carriers can file with TDI and apply when calculating workers' compensation premium. The MRF takes into consideration individual risk characteristics and loss experience of an insured. Insurers may use predictive modeling to determine the MRF. The term MRF can include tier rating and other similar terms.

Under the amendments to Rule III E, an insurer will apply its MRF to the policy in a multiplicative manner, and must not apply or use the MRF in a way that duplicates other rating factors, such as schedule and experience rating factors. Once determined, the MRF will apply during the entire policy period. Insurance carriers will be required to evaluate each policy's characteristics and experience at each renewal to determine the MRF for the renewal policy.

The amendments to Rule VI require insurance carriers to make a filing with TDI under Title 28, Texas Administrative Code, Chapter 5, Subchapter M (Filing Requirements) before using an MRF. The filing must include the MRFs; the characteristics, variables, or criteria used to determine the MRFs; actuarial support for the MRFs; and other supporting documentation.

The commissioner has determined that the amendments to the manual are necessary for insurance carriers to use MRFs in calculating workers' compensation rates or premiums. The proposed filing requirement is necessary to promote transparency and accountability in the use of MRFs.

Including an MRF in premium calculations allows an insurance carrier to tailor premiums more precisely to each insured by including an insured's specific risk characteristics and loss experience. With a more precise risk assessment, the insurance carrier can come closer to charging the appropriate premium for the risk each insured actually presents.

A copy of the full text of the petition and related exhibits has been on file with the TDI Office of the Chief Clerk since April 5, 2013. The petition and exhibits, with the editorial change to Rule VI, section M.2.c, are incorporated by reference into this commissioner's order.

The commissioner adopts the amendments pursuant to Article 5.96 of the Texas Insurance Code. Article 5.96 exempts action taken under this article from the

requirements of the Administrative Procedure Act (Government Code, Title 10, Chapter 2001), and authorizes TDI to prescribe, promulgate, adopt, approve, amend, or repeal standard and uniform manual rules, rating plans, classification plans, statistical plans, and policy and endorsement forms for various lines of insurance, including workers' compensation.

TDI certifies that the amendments to the manual have been reviewed by legal counsel and found to be a valid exercise of TDI's authority.

Issued in Austin, Texas, on August 7, 2013.

Sara Waitt, General Counsel
Texas Department of Insurance

The commissioner orders that the amendments to the *Texas Basic Manual of Rules, Classifications and Experience Rating Plan for Workers' Compensation and Employers' Liability Insurance* proposed by the April 5, 2013, petition filed by Liberty Mutual Insurance and its group affiliates (Reference No. W-0413-01) and exhibits attached to and incorporated into this order by reference be effective 15 days after notice of their adoption is published in the *Texas Register*.

Julia Rathgeber
Commissioner of Insurance

Recommended by:

Nancy Moore, Team Lead
WC Classification and Premium Calculation Team

Commissioner's Order No. **2691**