

**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

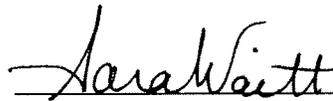
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2001), and authorizes TDI to prescribe, promulgate, adopt, approve, amend, or repeal standard and uniform manual rules, rating plans, classification plans, statistical plans, and policy and endorsement forms for various lines of insurance, including 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 ~~July~~ ^{August 7}, 2013.



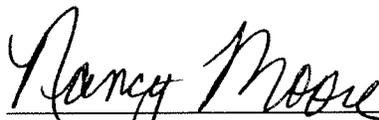
Sara Waitt, General Counsel
Texas Department of Insurance

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**

Current Phraseology

New Phraseology

RULES

TEXAS WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY INSURANCE

RULE III - POLICY PREPARATION - INSURED, POLICY PERIOD, STATE OF OPERATIONS AND ESTIMATED POLICY COST

Items 1, 2, 3.A., and 4 of the Information Page

E. CALCULATION OF TOTAL ESTIMATED POLICY COST** - ITEM 4

1. ESTIMATED PAYROLL X RATE = ESTIMATED ANNUAL PREMIUM FOR CLASSIFICATION
2. + ESTIMATED PAYROLL X RATE = ESTIMATED ANNUAL PREMIUM FOR CLASSIFICATION
3. + ESTIMATED PAYROLL X RATE = ESTIMATED ANNUAL PREMIUM FOR CLASSIFICATION
4. + AIRCRAFT PASSENGER SEAT SURCHARGE, IF APPLICABLE
5. + PREMIUM CHARGE FOR WAIVER OF SUBROGATION, IF APPLICABLE
6. + PREMIUM FOR INCREASED LIMITS FOR EMPLOYERS' LIABILITY, IF APPLICABLE
7. ± PREMIUM INCENTIVE FOR SMALL EMPLOYERS, IF APPLICABLE
8. = ESTIMATED PREMIUM SUBJECT TO EXPERIENCE MODIFIER (1+2+3+4+5+6±7)
9. x EXPERIENCE MODIFIER (OR NEGOTIATED MODIFIER), IF APPLICABLE
10. = ESTIMATED MODIFIED PREMIUM (8x9)
11. x MODELED RATING FACTOR, IF APPLICABLE
12. = ESTIMATED MODIFIED/MODELED RATING PREMIUM (10x11)
13. x SCHEDULE RATING PLAN FACTOR, IF APPLICABLE
14. = ESTIMATED MODIFIED/MODELED RATING/SCHEDULE RATING PREMIUM (12x13)
15. x NETWORK CREDIT FACTOR, IF APPLICABLE
16. = ESTIMATED MODIFIED/MODELED RATING/SCHEDULE RATING/NETWORK PREMIUM
17. - DEDUCTIBLE CREDIT, IF APPLICABLE (Based on estimated premium on line 16)
18. + MINIMUM PREMIUM FOR L. & H.W., ADMIRALTY OR, F.E.L.A. OPERATIONS, IF APPLICABLE
19. = ESTIMATED STANDARD PREMIUM (16-17+18)
20. - PREMIUM DISCOUNT, IF APPLICABLE (Based on estimated premium on line 19)
21. = ESTIMATED STANDARD PREMIUM AFTER PREMIUM DISCOUNT
22. x ACQUISITION EXPENSE DISCOUNT FACTOR, IF APPLICABLE
23. + EXPENSE CONSTANT
24. + TERRORISM PREMIUM (TOTAL PAYROLL/100 x TERRORISM RATE), IF APPLICABLE
25. = TOTAL ESTIMATED POLICY COST Excluding premium adjustments for retrospective rating plan and/or reimbursements for deductibles, if applicable [(21x22) + 23+24].

If the minimum premium is the total estimated policy cost, the acquisition expense discount shall be applied to the minimum premium.

** All workers' compensation policies are subject to a final payroll audit that reflects the actual payroll and the actual premium developed on the policy in comparison to the estimated payrolls and the estimated premium and estimated policy cost calculated at the time the policy is issued.

Current Phraseology

RULE VI - RATES AND PREMIUM DETERMINATION Item 4 of the Information Page

J. TERRORISM PREMIUM

The premium for the Terrorism Risk Insurance Act of 2002 is based on the policy's total payroll as defined in Rule V-B. To determine this premium, the total Texas payroll for the risk is divided by \$100 and then multiplied by the Terrorism rate filed with TDI by the insurance company. The calculation is expressed as (Payroll/100 x Terrorism Rate = Premium). This premium is then added to the Estimated Standard Premium, pursuant to Rule III-E. The terrorism premium is not subject to any modifications including, but not limited to, experience rating, schedule rating, retrospective rating, premium discount or premium incentive for small employers.

Premium developed under this Act is not included in standard premium.

Policies issued on an "if any" basis will not be charged a terrorism rate unless the policy develops premium during the policy term or at audit.

Premium for this Act does not apply to Code 0913 – Domestic Workers – Residences Per Capita Basis.

New Phraseology

RULE VI - RATES AND PREMIUM DETERMINATION Item 4 of the Information Page

J. TERRORISM PREMIUM

The premium for the Terrorism Risk Insurance Act of 2002 is based on the policy's total payroll as defined in Rule V-B. To determine this premium, the total Texas payroll for the risk is divided by \$100 and then multiplied by the Terrorism rate filed with TDI by the insurance company. The calculation is expressed as (Payroll/100 x Terrorism Rate = Premium). This premium is then added to the Estimated Standard Premium, pursuant to Rule III-E. The terrorism premium is not subject to any modifications including, but not limited to, experience rating, modeled rating, schedule rating, retrospective rating, premium discount, or premium incentive for small employers.

No Change

No Change

No Change

M. MODELED RATING FACTOR

1. Explanation

The modeled rating factor is an optional factor that insurance carriers can file with TDI and then apply when calculating premium. The MRF takes into consideration individual risk characteristics and loss experience of an insured. Predictive modeling may be used to determine the MRF. The term MRF can include a tier rating factor and other similar terms.

Current Phraseology

New Phraseology

2. Application

- a. The MRF shall be applied to the policy in a multiplicative manner, after the application of the experience modifier, and before the application of schedule rating, premium discounts, and the expense constant. (*Refer to Rule III E.*)
- b. The MRF shall not be applied or used in a way to duplicate other rating factors, such as schedule and experience rating.
- c. The MRF applies for the entire policy period. Insurance carriers are required to re-evaluate each policy's characteristics and experience at each renewal to determine the MRF for the renewal policy.
- d. The MRFs filed with TDI by an insurance carrier must apply to all policies for the carrier.

3. Insurance Carrier Requirements

- a. Each insurance carrier is required to file with TDI the following information:
 - (1) MRFs;
 - (2) Characteristics, variables, or criteria used to determine the MRF; and
 - (3) Actuarial support and other documentation supporting the MRFs.
- b. All filings shall be made in accordance with the requirements contained in Texas Administrative Code, Title 28, Chapter 5, Subchapter M., Filing Requirements.

RULE VII - PREMIUM DISCOUNT Item 4 of the Information Page

B. DEFINITIONS

1. Standard Premium

Standard premium means, for purposes of this rule, the Texas premium determined on the basis of the rates, any experience rating modification, schedule rating, deductible credit, and minimum premiums. The Expense Constant and premium for the Terrorism Risk Insurance Act of 2002 shall be excluded from determination of the standard premium.

RULE VII - PREMIUM DISCOUNT Item 4 of the Information Page

B. DEFINITIONS

1. Standard Premium

Standard premium means, for purposes of this rule, the Texas premium determined on the basis of the rates, any experience rating modification, modeled rating, schedule rating, deductible credit, and minimum premiums. The Expense Constant and premium for the Terrorism Risk Insurance Act of 2002 shall be excluded from determination of the standard premium.

Current Phraseology

New Phraseology

PROCEDURES

A. POLICY ISSUANCE

- (m) Negotiated experience modifier, if applicable.
- (n) Schedule rating factor, if applicable.
- (o) Network credit factor, if applicable.
- (p) Deductible credit, if applicable.
- (q) Premium discount, if applicable.
- (r) Acquisition Expense Discount, if applicable.
- (s) Expense constant.
- (t) Terrorism premium, if applicable.
- (u) Total estimated policy cost.
- (v) Minimum premium.
- (w) Deposit premium.
- (x) Signature or name of authorized Texas agent countersigning policy.

A. POLICY ISSUANCE

- 6. The information indicated on the Information Page of the policy shall be complete in all details:
 - (m) Negotiated experience modifier, if applicable.
 - (n) Modeled rating factor, if applicable.
 - (o) Schedule rating factor, if applicable.
 - (p) Network credit factor, if applicable.
 - (q) Deductible credit, if applicable.
 - (r) Premium discount, if applicable.
 - (s) Acquisition Expense Discount, if applicable.
 - (t) Expense constant.
 - (u) Terrorism premium, if applicable.
 - (v) Total estimated policy cost.
 - (w) Minimum premium.
 - (x) Deposit premium.
 - (y) Signature or name of authorized Texas agent countersigning policy.