

TEXAS DEPARTMENT OF INSURANCE
EXEMPT FILING NOTIFICATION UNDER TEXAS INSURANCE CODE
CHAPTER 5, SUBCHAPTER L, ARTICLE 5.96
AND NOTICE OF HEARING

The staff of the Texas Department of Insurance filed Petition No. W-0914-07-I on September 16, 2014. The petition requests that the commissioner adopt the *National Council on Compensation Insurance Experience Rating Plan Manual for Workers Compensation and Employers Liability Insurance (NCCI ER Plan)* and the Texas exceptions for experience rating modifications with effective dates on or after July 1, 2015.

The petition also requests that the current *Texas Experience Rating Plan (Texas ER Plan)* remain in effect for calculating and revising experience rating modifications with effective dates prior to July 1, 2015, and that any future revisions to the *NCCI ER Plan* with Texas exceptions follow either the procedure under Insurance Code Article 5.96 or the procedure in Commissioner's Order No. 3142.

Adopting the *NCCI ER Plan* with Texas exceptions is the last major step in Texas' transition to NCCI state status for workers' compensation purposes. The *NCCI ER Plan* with Texas exceptions will replace the *Texas ER Plan*, which is the last part of the *Texas Basic Manual of Rules, Classifications and Experience Rating Plan for Workers' Compensation and Employers' Liability Insurance (Texas Basic Manual)* in effect.

An experience rating plan helps ensure that rates reflect individual risk characteristics accurately and helps tailor a risk's premium prospectively, which provides employers a financial incentive for maintaining a safe workplace. It determines whether an insured's claims experience is better or worse than the average risk within that classification by comparing the actual loss experience of individual insureds with the average insured within the same classification.

The proposed *NCCI ER Plan* seeks to make experience rating more responsive to individual risk experience by broadening the distribution of experience rating modifications. Most risks will experience changes in their experience rating modifications that are very similar to the changes they experience in a typical annual update. The small number of risks that may move from a credit modification to a debit modification may be able to negotiate their modifications downward, as the negotiated modification rule will still be allowed until July 1, 2018.

Substantive differences between the *Texas ER Plan* and the proposed *NCCI ER Plan* include an experience rating adjustment in NCCI's experience rating modification formula that produces experience rating modifications that appropriately reflect differences between risks; changes to the split point, with corresponding updated weights, ballasts, and claim limitations; annual updates to those and to the expected loss rates and discount ratios; a maximum debit modification; and a three-year transition period to eliminate negotiated experience rating modifications. The *NCCI ER Plan* also incorporates several provisions that are either entirely new to Texas or that differ from provisions that exist in the *Texas ER Plan*, but those changes should not affect premiums.

Many of the changes discussed above in the *NCCI ER Plan* work together to minimize the overall disruption to the industry. For example, the use of the experience rating adjustment decreases the amount of the losses included in the calculation of the experience modification, while the higher split point generally increases the amount of the losses included in the calculation of the experience rating modification. To reduce the impact to individual insureds, NCCI and staff recommend implementing the proposed changes in their entirety, as opposed to transitioning the implementation over time.

NCCI is a licensed advisory organization in Texas, the largest provider of workers' compensation and employee injury data and workers' compensation statistics in the nation, and the statistical agent and administrator for certain workers' compensation functions in Texas. This rule would adopt the *NCCI ER Plan* and the Texas exceptions, which amend the *NCCI ER Plan* to comply with unique Texas statutory and rule requirements. The *NCCI ER Plan* is currently approved in 38 jurisdictions.

Carriers and policyholders will also benefit from NCCI's technical expertise, infrastructure, and support. All NCCI manuals are currently available electronically on the NCCI website to subscribers and affiliates of NCCI. The Texas exceptions to the *NCCI Stat Plan* will also be available through the same system. NCCI has the staffing and technical resources to create, maintain, and support links between the information in the NCCI manuals and the Texas exceptions, which makes NCCI's electronic manuals very easy to use. NCCI will format the final Texas exceptions to match the style of its other manuals.

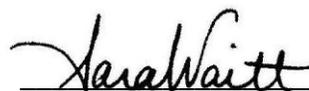
Insurance Code Article 5.96 and §§2053.052, 1805.054, 1805.055, and 36.001 authorize staff to file this petition and the commissioner to take the requested action.

You may review a copy of the petition on the TDI website at www.tdi.texas.gov/rules/2014/exrules.html, or you may review a copy of the petition and exhibits in the Office of the Chief Clerk, Texas Department of Insurance, 333 Guadalupe Street, Austin, Texas 78701. The exhibits, available for review only, include the *NCCI ER Plan*; and the draft of the July 1, 2015, Table of Expected Loss Rates and Discount Ratios, Table of Weighting Values, Table of Ballast Values, and various claim limitations that NCCI will file with TDI in September 2014. For further information, please contact the Office of the Chief Clerk by email at ChiefClerk@tdi.texas.gov or by phone at 512-463-6327.

The commissioner has scheduled a hearing under Docket No. 2771 at 1 p.m. on October 23, 2014, in Room 100 of the William P. Hobby Jr. State Office Building, 333 Guadalupe Street, Austin, Texas, to take action on the staff's petition. To comment on the petition and exhibits, please submit two copies of your comments to TDI by November 3, 2014. Send one copy to the Office of the Chief Clerk, Texas Department of Insurance, Mail Code 113-2A, P.O. Box 149104, Austin, Texas 78714-9104. Send the other copy to Nancy Moore, Team Lead, Workers' Compensation Classification and Premium Calculation, Texas Department of Insurance, P.O. Box 149104, Mail Code 105-2A, Austin, Texas 78714-9104. You may also present comments at the hearing.

TDI publishes this notification under Article 5.96 of the Texas Insurance Code, which exempts action taken under this article from the requirements of the Administrative Procedure Act (Government Code, Title 10, Chapter 2001).

Issued in Austin, Texas on September 16, 2014.



Sara Waitt, General Counsel
Texas Department of Insurance