

NOTE: This bill has been prepared for the signatures of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.



SENATE BILL 26-175

BY SENATOR(S) Snyder and Catlin, Benavidez, Exum, Kipp, Liston, Pelton R., Rodriguez, Coleman;
also REPRESENTATIVE(S) Mauro and Richardson, Barron, Caldwell, Flanell, Gonzalez R., Keltie.

CONCERNING THE ADJUSTMENT OF AN EMPLOYER'S EXPERIENCE
MODIFICATION FACTOR IN WORKERS' COMPENSATION.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, **add** 8-44-109.5 as follows:

8-44-109.5. Experience modification factor - adjustment.

(1) (a) EACH INSURANCE CARRIER AUTHORIZED TO TRANSACT BUSINESS IN THIS STATE, INCLUDING PINNACOL ASSURANCE, THAT INSURES AN EMPLOYER AGAINST LIABILITY FOR COMPENSATION UNDER ARTICLES 40 TO 47 OF THIS TITLE 8 UPON NOTIFICATION BY AN EMPLOYER OR A LICENSED INSURANCE PRODUCER SHALL NOTIFY THE EMPLOYER'S AUTHORIZED RATING ORGANIZATION TO REVISE THE EMPLOYER'S EXPERIENCE MODIFICATION FACTOR TO REFLECT THE ACTUAL DOLLAR AMOUNT PAID FOR A CLOSED

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

CLAIM INSTEAD OF THE ACTUAL DOLLAR AMOUNT PAID PLUS RESERVES DETERMINED PRIOR TO THE CLOSURE OF THE CLAIM.

(b) THE EMPLOYER OR LICENSED INSURANCE PRODUCER MUST NOTIFY THE INSURANCE CARRIER BETWEEN THE TIME THE CLAIM IS REPORTED TO A RATING BUREAU AND THIRTY-ONE DAYS AFTER THE EMPLOYER'S RATING EFFECTIVE DATE.

(2) AN EMPLOYER OR LICENSED INSURANCE PRODUCER MAY NOTIFY AN INSURANCE CARRIER TO MODIFY AN EXPERIENCE MODIFICATION FACTOR PURSUANT TO THIS SECTION ONLY WHEN:

(a) AN OPEN CLAIM IS REPORTED BY THE INSURANCE CARRIER TO THE RATING BUREAU WITH A HIGHER OPEN CLAIM AMOUNT THAN THE AMOUNT AFTER THE CLAIM WAS CLOSED; AND

(b) THE LOWER CLAIM AMOUNT WOULD REDUCE AN EMPLOYER'S EXPERIENCE MODIFICATION FACTOR:

(I) AT LEAST .05 COMPARED TO THE PREVIOUSLY RELEASED EXPERIENCE MODIFICATION FACTOR; OR

(II) FROM ABOVE 1.0 TO 1.0 OR BELOW.

(3) THE AUTHORIZED RATING ORGANIZATION SHALL ADJUST THE EXPERIENCE MODIFICATION FACTOR WITHIN THIRTY DAYS AFTER NOTIFICATION FROM THE INSURANCE CARRIER PURSUANT TO SUBSECTION (1) OF THIS SECTION. THE INSURANCE CARRIER SHALL CREDIT AN EMPLOYER FOR A PREMIUM CHANGE CALCULATED AS A RESULT OF THE UPDATED EXPERIENCE MODIFICATION FACTOR WITHIN THE EMPLOYER'S POLICY PERIOD.

SECTION 2. Act subject to petition - effective date - applicability. (1) This act takes effect January 1, 2027; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within the ninety-day period after final adjournment of the general assembly, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2026 and, in such case, will take effect January 1, 2027, or on the date of the official declaration of the vote thereon by the governor, whichever is later.

(2) This act applies to claims closed on or after the applicable effective date of this act.

James Rashad Coleman, Sr.
PRESIDENT OF
THE SENATE

Julie McCluskie
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Esther van Mourik
SECRETARY OF
THE SENATE

Vanessa Reilly
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO