

Second Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 26-1004.01 Yelana Love x2295

SENATE BILL 26-175

SENATE SPONSORSHIP

Snyder and Catlin,

HOUSE SPONSORSHIP

Mauro and Richardson,

Senate Committees

Business, Labor, & Technology

House Committees

A BILL FOR AN ACT

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

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill creates a process for employers and licensed insurance producers to update an employer's experience modification factor when:

- An open claim is reported by an insurance carrier to the rating bureau with a higher open claim amount than the amount after the claim was closed; and
- The lower claim amount would reduce an employer's

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

experience modification factor at least .05 compared to the previously released experience modification factor or from above 1.0 to 1.0 or below.

The employer must notify the insurance carrier between the time the claim is reported to a rating bureau and 31 days after the employer's rating effective date. The insurance carrier is required to credit the employer for a premium change resulting from the revised experience modification factor.

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

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

4 **8-44-109.5. Experience modification factor - adjustment.**

5 (1) (a) EACH INSURANCE CARRIER AUTHORIZED TO TRANSACT
6 BUSINESS IN THIS STATE, INCLUDING PINNACOL ASSURANCE, THAT
7 INSURES AN EMPLOYER AGAINST LIABILITY FOR COMPENSATION UNDER
8 ARTICLES 40 TO 47 OF THIS TITLE 8 UPON NOTIFICATION BY AN EMPLOYER
9 OR A LICENSED INSURANCE PRODUCER SHALL NOTIFY THE EMPLOYER'S
10 AUTHORIZED RATING ORGANIZATION TO REVISE THE EMPLOYER'S
11 EXPERIENCE MODIFICATION FACTOR TO REFLECT THE ACTUAL DOLLAR
12 AMOUNT PAID FOR A CLOSED CLAIM INSTEAD OF THE ACTUAL DOLLAR
13 AMOUNT PAID PLUS RESERVES DETERMINED PRIOR TO THE CLOSURE OF THE
14 CLAIM.

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

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

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

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

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

8 (II) FROM ABOVE 1.0 TO 1.0 OR BELOW.

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

16 **SECTION 2. Act subject to petition - effective date -**
17 **applicability.** (1) This act takes effect January 1, 2027; except that, if a
18 referendum petition is filed pursuant to section 1 (3) of article V of the
19 state constitution against this act or an item, section, or part of this act
20 within the ninety-day period after final adjournment of the general
21 assembly, then the act, item, section, or part will not take effect unless
22 approved by the people at the general election to be held in November
23 2026 and, in such case, will take effect January 1, 2027, or on the date of
24 the official declaration of the vote thereon by the governor, whichever is
25 later.

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