

HOUSE BILL No. 1159

DIGEST OF INTRODUCED BILL

Citations Affected: IC 22-5-10; IC 27-7-2.

Synopsis: Worker's compensation. Provides that a bid specification that is entered into, issued, amended, or renewed after June 30, 2024, may not contain a provision requiring an employer to have or maintain a specified experience rating. Requires certain insurance companies that make a successful subrogation claim to revise an insured party's prior experience ratings in a specified manner. Provides exceptions. Defines terms and makes a conforming amendment.

Effective: July 1, 2024.

Lehman

January 8, 2024, read first time and referred to Committee on Employment, Labor and Pensions.



Second Regular Session of the 123rd General Assembly (2024)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2023 Regular Session of the General Assembly.

HOUSE BILL No. 1159

A BILL FOR AN ACT to amend the Indiana Code concerning labor and safety.

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

1 SECTION 1. IC 22-5-10 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2024]:
4 **Chapter 10. Required Experience Ratings**
5 **Sec. 1. As used in this chapter, "employer" means a sole**
6 **proprietor, corporation, partnership, limited liability company, or**
7 **other entity with one (1) or more employees.**
8 **Sec. 2. As used in this chapter, "experience rating" has the**
9 **meaning set forth in IC 27-7-2-2(m).**
10 **Sec. 3. A bid specification that is:**
11 **(1) entered into;**
12 **(2) issued;**
13 **(3) amended; or**
14 **(4) renewed;**
15 **after June 30, 2024, may not contain a provision requiring an**
16 **employer to have or maintain a specified experience rating.**
17 **Sec. 4. This chapter does not prohibit a party from considering**



1 **an employer's experience rating when awarding a contract.**

2 SECTION 2. IC 27-7-2-2 IS AMENDED TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2024]: Sec. 2. As used in this chapter and
4 unless a different meaning appears from the context:

5 (a) "Department" means the department of insurance of this state.

6 (b) "Worker's compensation board" means the worker's
7 compensation board of Indiana.

8 (c) "Company" means an insurance company and includes all
9 persons, partnerships, corporations, or associations engaged in making
10 worker's compensation insurance under the laws of this state.

11 (d) "Domestic company" means a company organized under the
12 laws of this state.

13 (e) "Foreign company" means a company organized under the laws
14 of any state of the United States, other than this state or under the laws
15 of any territory or insular possession of the United States or the District
16 of Columbia.

17 (f) "Alien company" means a company organized under the laws of
18 any country other than the United States or a territory or insular
19 possession thereof or of the District of Columbia.

20 (g) "Person" includes individuals, corporations, firms, companies,
21 associations, and partnerships. The personal pronoun includes all
22 genders. The singular includes the plural, and the plural includes the
23 singular.

24 (h) "Commissioner" means the insurance commissioner of this state.

25 (i) "Bureau" means the worker's compensation rating bureau of
26 Indiana.

27 (j) "Interested person" means any person who has filed with the
28 department a request to be notified under sections 4(b) and 20.2(c) of
29 this chapter of each filing of rates by the bureau or a company.

30 (k) "Assigned risk plan" means the plan by which members of the
31 worker's compensation rating bureau provide for the insurance of
32 rejected risks.

33 (l) "Classification system" or "classification" means the plan,
34 system, or arrangement for recognizing differences in exposure to
35 hazards among industries, occupations, or operations of insurance
36 policyholders.

37 (m) "Experience rating" means a rating procedure utilizing past
38 insurance experience of the individual policyholder to forecast future
39 losses by measuring the policyholder's loss experience against the loss
40 experience of policyholders in the same classification to produce a
41 prospective premium credit, debit, or unity modification.

42 (n) "Rate" means the cost of insurance per exposure base unit, prior



1 to any application of individual risk variations based on loss or expense
2 considerations, and does not include minimum premiums.

3 (o) "Schedule rating plan" means an independent rating plan that
4 measures hazard differences that have an immediate bearing on the
5 probability or severity of loss and applies debits and credits to modify
6 the premium for a risk.

7 (p) "Statistical plan" means the plan, system, or arrangement used
8 in collecting data.

9 **(q) "Subrogation claim" means a claim or action that is filed or
10 otherwise initiated:**

11 **(1) by a company against a third party that caused a loss to an
12 insured party; and**

13 **(2) to recover from the third party the amount of a claim
14 paid:**

15 **(A) by the company; and**

16 **(B) either:**

17 **(i) to the insured party; or**

18 **(ii) on behalf of the insured party;**

19 **for the loss to the insured party.**

20 **(r) "Successful subrogation claim" means a subrogation claim
21 that results in payment of money by a third party to a company,
22 even if the amount of money paid to the company by the third
23 party is less than the amount of the claim paid:**

24 **(1) by the company; and**

25 **(2) either:**

26 **(A) to the insured party; or**

27 **(B) on behalf of the insured party;**

28 **for the loss to the insured party.**

29 **(s) "Supplementary rate information" means any manual or plan
30 of rates, classification system, rating schedule, minimum premium,
31 rating rule, rating plan, and any other similar information needed to
32 determine the applicable premium for an insured.**

33 **(t) "Supporting information" means the experience and judgment
34 of the filer and the experience or data of other companies or
35 organizations relied on by the filer, the interpretation of any statistical
36 data relied on by the filer, descriptions of methods used in making the
37 rates, and any other similar information required to be filed by the
38 commissioner.**

39 **SECTION 3. IC 27-7-2-20 IS AMENDED TO READ AS
40 FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 20. (a) **Except as
41 provided in section 20.5 of this chapter**, every company shall adhere
42 to manual rules, policy forms, a statistical plan, a classification system,**



1 and experience rating plan filed by the bureau and approved by the
2 commissioner.

3 (b) The commissioner shall designate the bureau to assist in
4 gathering, compiling, and reporting relevant statistical information.
5 Every company shall record and report its worker's compensation
6 experience to the bureau according to the statistical plan approved by
7 the commissioner. The report shall include any deviation from the filed
8 recommended minimum premiums and rates, in total and by
9 classification. The bureau shall annually submit data concerning these
10 deviations to the department. Upon receipt, the department shall
11 evaluate the data and prepare a report concerning the effect of
12 competitive rating in Indiana. The department shall make the report
13 available not later than October 31 of each year.

14 (c) Every company shall adhere to the approved manual rules,
15 policy forms, statistical plan, classification system, and experience
16 rating plan in the recording and reporting of data to the bureau.

17 (d) Copies of all approved classifications, rules, and forms shall be
18 provided to the worker's compensation board.

19 SECTION 4. IC 27-7-2-20.5 IS ADDED TO THE INDIANA CODE
20 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
21 1, 2024]: **Sec. 20.5. (a) Except as provided in subsection (d), when
22 a company makes a successful subrogation claim, the company
23 shall revise the experience rating of the insured party in the
24 manner set forth in this section.**

25 **(b) After a company makes a successful subrogation claim, the
26 company shall revise all of the insured party's prior experience
27 ratings that were modified as a result of the insured party's claim
28 for which the company made the successful subrogation claim.**

29 **(c) The company shall revise the prior experience ratings
30 described under subsection (b) in a manner that:**

31 **(1) accounts for the entire amount the company received as a
32 result of the successful subrogation claim; and**

33 **(2) ensures that the insured party receives, by way of the
34 revised experience ratings, a monetary benefit equivalent to
35 the amount the company received as a result of the successful
36 subrogation claim.**

37 **(d) A company is not required to comply with this section if:**

38 **(1) at the time of the successful subrogation claim, the insured
39 party who submitted the claim for which the company made
40 the subrogation claim is not the owner of the policy under
41 which the claim was submitted; or**

42 **(2) compliance with this section would require violation of a**



1 **contract that was entered into, amended, or renewed before**
2 **July 1, 2024.**

