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NATIONAL COUNCIL OF INSURANCE LEGISLATORS (NCOIL)

Experience Rating Modification Model Act

**Sponsored by Rep. Matt Lehman (IN)*

**Adopted by the NCOIL Workers' Compensation Insurance Committee on November 13, 2025, and by the NCOIL Executive Committee on November 15, 2025.*

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Section 1. Title

This Act shall be known as the [State] Experience Rating Modification Act.

Section 2. Definitions

As used in this Act, the following terms shall have the following meanings:

(A) "Employer" means a sole proprietor, a corporation, a partnership, a limited liability company, or another entity with one (1) or more employees.

(B) "Experience rating" is a numerical factor used to adjust workers' compensation insurance premiums based on an employer's past claims experience.

Section 3. Experience Rating and Employer Contract Bidding

(A) After [insert date following enactment], a party may not prohibit an employer from bidding on a contract solely on the basis of the employer's experience rating.

(B) This Section does not preclude a party from considering an employer's experience rating when awarding a contract.

(C) Nothing in this section creates a cause of action against the party.

Section 4. Experience Rating Remedies

If an employer, being then insured, sustains damages due to a change in workers' compensation insurance premium, whether by a failure to achieve a decrease or by a retroactive or prospective increase, as a result of the injury or death of an employee which was caused under circumstances which created a legal liability for damages on the part of a party other than the employer, the employer notwithstanding other remedies provided, may maintain action against the other party for recovery of the premiums. Damages recovered under this clause are for the benefit of the employer only.

Section 5. Rules

The Commissioner shall adopt rules to effectuate the provisions of this Act.

Section 6. Effective Date

This Act shall take effect xxxxx.