

4123-17-51 TERMINATION AND TRANSFERS.

(A) A risk may not retroactively include claims experience in a plan, exclude claims experience from a plan nor voluntarily terminate a plan during the evaluation period.

(B) Successor: retrospective-rated Predecessor: experience-rated, base-rated, non-complying or self-insured

Where one legal entity that has established coverage and is a retrospective-rated employer wholly succeeds one or more legal entities having established coverage and the predecessor entities are either experience-rated, base-rated, non-complying or self-insured at the date of succession, the costs incurred and payroll reported by the predecessor from the date of succession to the end of the policy year, shall be included in the successor's retrospective rating plan. The successor remains liable for any and all charges associated with the predecessor. If the predecessor had at any time participated in a retrospective policy plan, the successor remains liable for any and all charges associated with the retrospective policy plans. The adjustment for combinations in the experience rating system will follow the same rules that are in effect as of the date of succession.

(C) Successor: self-insured Predecessor: retrospective-rated

Where one legal entity that has established coverage and is a self-insured employer wholly succeeds one or more entities that are retrospective-rated, the retrospective-rated predecessor's plan(s) shall terminate as of the ending date of the evaluation period. Payroll reported and claims incurred on or after the date of succession will be the responsibility of the successor. The successor shall remain responsible for all liabilities of the predecessor, including but not limited to costs associated with any retrospective policy years still in the evaluation period. The minimum premium for the current policy year will be based upon the predecessor's annualized payroll.

(D) Successor: experience-rated or base-rated Predecessor: retrospective-rated

Where one legal entity that has established coverage and is an experience-rated or based-rated employer wholly succeeds one or more entities that are retrospective-rated, the retrospective-rated predecessor's plan(s) shall terminate as of the ending date of the evaluation period. Payroll reported and claims incurred on or after the date of succession will be the responsibility of the successor under its experience rated plan. The successor shall remain responsible for all liabilities of the predecessor, including but not limited to costs associated with any retrospective policy years still in the evaluation period. The minimum premium for the current policy year will be based upon the predecessor's annualized payroll.

(E) Successor: retrospective-rated Predecessor: retrospective-rated

If the successor and the predecessor are retrospective-rated employers for the current policy year, the successor shall be retrospective-rated based on the combined experience

of the predecessor and the successor. The successor remains liable for any and all retrospective-rated premiums or other charges associated with the predecessor. The adjustment for combinations in the experience rating system will follow the same rules that are in effect as of the date of succession.

(F) Successor: entity not having coverage Predecessor: retrospective-rated

When an entity not having coverage wholly succeeds a retrospective-rated entity, the experience of the predecessor shall be transferred to the successor-employer effective as of the actual date of succession. The successor remains liable for any and all open retrospective-rated premium or other charges associated with the predecessor. The successor entity will become retrospective-rated as of the date of succession until the end of the policy year, with the same plan parameters chosen by the predecessor risk. The adjustment for combinations in the experience rating system will follow the same rules that are in effect as of the date of succession.

(G) Successor: cancels coverage Predecessor: no predecessor

If a current or previously retrospective-rated employer cancels coverage and does not transfer or combine operations with another entity, all open retrospective policy years will be terminated as of the date of cancellation. If the employer was retrospective-rated during the two most recent rating years, the final premium for each of those years will be the maximum premium for the plan selected by the employer. The maximum premium for the current year will be based upon the employer's annualized payroll. If the employer was retrospective-rated in other years of the evaluation period, the final premium for each of those years will be calculated as stated in rule 4123-17-47 of the Administrative Code.

(H) Successor: files a petition for bankruptcy Predecessor: no predecessor

If a current or previously retrospective-rated employer with open policy year(s) files a petition for bankruptcy under chapter 7 or chapter 11 of the Federal Bankruptcy Law, that employer shall notify the bureau of workers' compensation law section by certified mail within five working days from the date of the bankruptcy filing. The bureau will petition the bankruptcy court to take appropriate action to protect the health of the state insurance fund and other related funds.

(I) Successor and/or predecessor: open retrospective-rated policy years in the evaluation period.

If the successor and predecessor employers are not currently retrospective-rated but either or both have open retrospective-rated policy years in the evaluation period, the successor shall be liable for any and all retrospective-rated premiums or other charges associated with the predecessor. The adjustment for combinations in the experience rating system will follow the same rules that are currently being used.

(J) Partial transfer

If an entity partially succeeds another entity and the predecessor entity has any retrospective policy years in the evaluation period, the predecessor entity remains liable for all premium associated with claims incurred prior to the date of the partial transfer. If the financial capability of the predecessor entity is not sufficient to cover the costs of the retrospective rating plan, the successor shall be liable for all unpaid costs of the predecessor's retrospective rating plan through closure. If the successor is retrospective-rated in the current policy year and the effective date of the partial transfer is other than the beginning of the rating year, the successor will continue to be rated in the same manner as prior to the transfer. The successor will be liable for any payroll and/or claims incurred from that part of the predecessor entity which was transferred, beginning on the date of the transfer. If the successor has retrospective policy years in the evaluation period, the successor remains liable for all charges associated with retrospective rating plan(s), whether or not the successor is retrospective rated as of the effective date of the partial transfer. The adjustment for partial transfers in the experience rating system will follow the same rules that are in effect as of the date of succession.

(K) Transfer or sale of assets only

In the case of the transfer or sale of assets without transfer of liability or stock, the transferor who is now retrospective-rated or has been retrospective-rated with policy year(s) still in the evaluation period shall notify the Ohio bureau of workers' compensation actuarial section by certified mail within five working days of the date of transfer. The bureau shall schedule and hold a hearing within sixty days of such notification, or in the event of no notification, within sixty days of receiving information which indicates such a transfer may have occurred. At this hearing the bureau shall determine and set responsibility for funding the as yet unpaid costs associated with the retrospective policy year(s) still in the evaluation period.

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