

No. 2020-6625

**Official Order
of the
Texas Commissioner of Insurance**

Date: 12/22/2020

Subject considered:

National Council on Compensation Insurance Filing
*Item B-1439—Revisions to Basic Manual Classifications and Appendix E, Including
Construction Salespersons and Estimators*

The subject of this order is the adoption of amendments to the National Council on Compensation Insurance (NCCI) *Basic Manual for Workers Compensation and Employers Liability Insurance* (Basic Manual), as proposed in *Item B-1439—Revisions to Basic Manual Classifications and Appendix E, Including Construction Salespersons and Estimators* (TDI ECase No. 22879; SERFF Tracking No. NCCI-132099789).

Background

The amendments to *Item B-1439* eliminate national and state classifications with low credibility and establish rules to classify construction job site salespersons and estimators.

After considering the filing, TDI adopts the following findings of fact and conclusions of law.

Findings of Fact

1. NCCI filed *Item B-1439* with TDI on October 29, 2019, under the workers' compensation manual rule filing procedure adopted in Commissioner's Order No. 3142, dated March 21, 2014.
2. *Item B-1439* eliminates classifications with low credibility—those that are too small to develop meaningful data for ratemaking purposes. In Texas, *Item B-1439* eliminates Code 2683 (luggage, fur, and bag manufacturing) and all phraseologies are reassigned to Code 2501 (assorted textile manufacturing).

2020-6625

Commissioner's Order

NCCI Item B-1439

Page 2 of 4

3. *Item B-1439* clarifies classification treatment for construction job site salespersons and estimators by establishing new phraseology in Code 8720. Because national Code 8720 currently includes estimating and inspection activities that have similar hazard exposure, NCCI determined that adding phraseology for construction job site salespersons and estimators to Code 8720 provides consistent assignment of these activities.
4. *Item B-1439*:
 - a. Establishes a new phraseology: Code 8720—Construction—Job Site Salespersons and Estimators;
 - b. Revises the phraseology of Code 8742 to refer to Code 8720 for the assignment of construction job site salespersons and estimators;
 - c. Eliminates redundant phraseologies in Code 8742;
 - d. Revises NCCI's Basic Manual Rule 1-B-2-c to indicate that Code 8742 does not apply to employees who perform job site measurements or inspections to prepare bids for a job for a construction contractor; and
 - e. Revises NCCI's Basic Manual Rule 1-D-3-d to include Construction—Job Site Salespersons and Estimators.
5. On February 27, 2020, TDI published notice of the filing on the TDI website at www.tdi.texas.gov/rules/2019/nccimanual.html and distributed notice of the filing to electronic news subscribers.
6. TDI received one comment, from Texas Mutual Insurance Company (TMIC), on the filing by the April 3, 2020, deadline. TMIC expressed that it could not support the changes for construction job site salespersons and estimators unless additional phraseologies for estimating and inspection activities were reassigned from Codes 4511 and 8742 to Code 8720. TMIC stated that this would prevent inconsistencies in the assignment of class codes for estimating and inspection activities and would make Texas phraseologies consistent with national phraseologies since national Code 8720 includes these same phraseologies.
7. At TDI's request, NCCI amended its filing on May 6, 2020, to align with the comments.
8. In response to the comment, the amendments to *Item B-1439* eliminate the following Texas special phraseologies from Codes 4511 and 8742 and reassign them to Code 8720: 4511—Boiler Inspection, 4511—Elevator Inspecting, 4511—Marine Appraiser or Surveyor, 4511—Racetrack Operation—Horse—Officials & Stewards, 8742—Inspection of Risks for Insurance or Valuation Purposes NOC—Visual

2020-6625

Commissioner's Order

NCCI Item B-1439

Page 3 of 4

Inspection Only, 8742—Insurance Claim Adjusters—Outside, and 8742—Claim Adjusters or Special Agents—Insurance Co.—Outside.

9. On September 20, 2020, TDI published notice of the amended filing on the TDI website at www.tdi.texas.gov/rules/2019/nccimannual.html and distributed notice of the filing to electronic news subscribers.
10. TDI did not receive any comments or hearing requests on the amended filing by the October 26, 2020, deadline.
11. *Item B-1439* has been available for public inspection in SERFF and at TDI since the filing date.
12. NCCI proposed that the changes in *Item B-1439* apply to new and renewal policies that are effective on or after 12:01 a.m. on July 1, 2021.
13. The amended filing, including exhibits, is incorporated by reference into this order.

Conclusions of Law

1. TDI has jurisdiction over this matter under Insurance Code Article 5.96 and Insurance Code §§2051.002, 2051.201, 2052.002, 2053.002, 2053.011, 2053.051, and 2053.052.
2. TDI gave notice in compliance with Commissioner's Order No. 3142.
3. The amendments to the NCCI Basic Manual are consistent with Insurance Code Article 5.96 and Insurance Code Chapters 2051, 2052, and 2053.
4. Applying the changes in *Item B-1439*, as amended, to new and renewal policies that are effective on or after 12:01 a.m. on July 1, 2021, is reasonable.

Order

It is ordered that NCCI's filing, *Item B-1439—Revisions to Basic Manual Classifications and Appendix E, Including Construction Salespersons and Estimators*, as amended, is approved. The changes in *Item B-1439* apply to new and renewal policies that are effective on or after 12:01 a.m. on July 1, 2021.

2020-6625

Commissioner's Order

NCCI Item B-1439

Page 4 of 4

Commissioner of Insurance

DocuSigned by:
By: *Doug Slape*
C77A87C8C21B435...
Doug Slape
Chief Deputy Commissioner
Tex. Gov't Code § 601.002
Commissioner's Order No. 2018-5528

Recommended by:
DocuSigned by:
Mark Worman
70ABE377123E401...
Mark Worman, Deputy Commissioner

Reviewed by:
DocuSigned by:
Sandra Foreman
2810720DCFE7408...
Sandra Foreman, Staff Attorney