

**State of California
Office of Administrative Law**

In re:

Department of Industrial Relations

Regulatory Action:

Title 8, California Code of Regulations

Adopt sections: 15209

**Amend sections: 15201, 15210, 15210.1,
15475, 15477, 15481,
15484, 15496, 15497**

Repeal sections:

**NOTICE OF APPROVAL OF CERTIFICATE OF
COMPLIANCE**

**Government Code Section 11349.1 and
11349.6(d)**

OAL File No. 2013-0701-01 C


Employers must either insure for workers' compensation claims by using a carrier or by getting a certificate of consent from the Department of Industrial Relations (Department) to self insure, either as an individual employer or by joining with a group of employers. The certificates of consent to self insure may be given upon furnishing satisfactory proof to the Director of ability to self-insure and to pay any compensation that may become due to his or her employees. Existing Labor Code section 3701 requires private self-insuring employers, including self-insuring groups of employers, to post security deposits with the Department. The Labor Code also addresses how those amounts are to be calculated. The Department is amending the regulations on self-insuring to update them and to implement new requirements signed into law on September 19, 2012 (SB 863, Ch. 363, Stats. 2012). SB 863 changes the calculation of those security deposits and requires that the calculation of the self-insurer's projected losses and expenses upon which the security deposit is based "be reflected in a written actuarial report that projects ultimate liabilities of the private self-insured employer at the expected actuarial confidence level, to ensure that all claims and associated costs are recognized." These regulations also articulate the qualifications of the actuary who prepares the study and report.

This rulemaking (among other things):

1. Defines the content of the annual actuarial reports required by Labor Code section 3701(c).
2. Describes the qualifications that the actuaries need to possess to prepare the annual reports; and,
3. Makes changes to bring the regulations into consistency with the changes enacted in SB 863.

OAL approves this regulatory action pursuant to section 11349.6(d) of the Government Code.

Date: 8/13/2013



Elizabeth A. Heidig
Senior Counsel

For: DEBRA M. CORNEZ
Director

Original: Christine Baker
Copy: Jon Wroten

STATE OF CALIFORNIA OFFICE OF ADMINISTRATIVE LAW
NOTICE PUBLICATION/REGULATION(S) SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-2013)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-2013-0416-10	REGULATORY ACTION NUMBER 2013-0701-01C	EMERGENCY NUMBER
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ENDORSED FILED
IN THE OFFICE OF

2013 AUG 13 PM 3:52

Debra Bowen
DEBRA BOWEN
SECRETARY OF STATE

For use by Office of Administrative Law (OAL) only

2013 JUL -1 AM 11:02

OFFICE OF ADMINISTRATIVE LAW

NOTICE REGULATIONS

AGENCY WITH RULEMAKING AUTHORITY
Department of Industrial Relations

AGENCY FILE NUMBER (if any)

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE Workers' Compensation - Self Insurance	TITLE(S) 8	FIRST SECTION AFFECTED 15201	2. REQUESTED PUBLICATION DATE April 26, 2013
3. NOTICE TYPE <input checked="" type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other	4. AGENCY CONTACT PERSON Jon Wroten	TELEPHONE NUMBER (916) 574-0721	FAX NUMBER (Optional) (916) 483-1535
OAL USE ONLY <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn	NOTICE REGISTER NUMBER 2013-17-2	PUBLICATION DATE 4/26/2013	

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Workers' Compensation - Self Insurance - Annual Actuarial Reports	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) Emergency No. 2012-1219-07
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2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)

SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT 15209
	AMEND 15201, 15210, 15210.1, 15475, 15477, 15481, 15484, 15496 and 15497
TITLE(S) 8	REPEAL

3. TYPE OF FILING

<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input checked="" type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> File & Print	<input type="checkbox"/> Print Only
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))		<input type="checkbox"/> Other (Specify) _____	

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)

<input type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))	<input checked="" type="checkbox"/> Effective on filing with Secretary of State	<input type="checkbox"/> §100 Changes Without Regulatory Effect	<input type="checkbox"/> Effective other (Specify) _____
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6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

<input checked="" type="checkbox"/> Department of Finance (Form STD. 399) (SAM 56660)	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal
<input type="checkbox"/> Other (Specify) _____		

7. CONTACT PERSON Jon Wroten	TELEPHONE NUMBER (916) 574-0721	FAX NUMBER (Optional) (916) 483-1535	E-MAIL ADDRESS (Optional) OSIPRulemaking@dir.ca.gov
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8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE 	DATE 6-28-2013
TYPED NAME AND TITLE OF SIGNATORY Jon Wroten, Chief, Office of Self Insurance Plans	

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

AUG 13 2013

Office of Administrative Law

Title 8. Industrial Relations
Division 1. Department of Industrial Relations
Chapter 8. Office of the Director
Subchapter 2. Administration of Self-Insurance Plans
Article 1. Definitions

§15201. Definitions.

The following definitions apply in Articles 1 through 13 of these regulations:

Actuarial Study. Also referred to as a 'study.' This is a complete actuarial study prepared by a qualified actuary presenting the full and complete results of the actuarial analysis and study performed by the actuary including, but not limited to, the requirements specified in section 15209 for private self-insurers or section 15481 for self-insured groups. The study will also serve as the basis for the completion of the actuarial summary and be attached to the actuarial summary.

Actuarial Summary. Also referred to as a 'summary.' This is a summary of the study prepared by the same qualified actuary that prepared the study. The summary is taken directly from the actuarial study, electronically filed with the Office of Self-Insurance Plans, and shall include the data specified in sections 15209 for private self-insurers or section 15481 for self-insured groups.

(a) Adjusting Location. The office address designated in accordance with Section 15402 of these regulations where:

- (1) The named administrator of the self insurer fulfills his/her function; and
- (2) The original records called for in Article 9 of these regulations are maintained.

In the event that claims are administered at the home of a telecommuting adjuster, the location shall be considered as a separate adjusting location for reporting and audit purposes unless the telecommuting adjuster reports to a California location of the administrator no less than weekly.

~~(b) Administrative Director. The Administrative Director of the Division of Workers' Compensation within the Department of Industrial Relations.~~

(e) Administrative Agency. The person or firm that performs the day-to-day claims administration functions of a workers' compensation self insurance program. The administrative agency may be:

- (1) An independent contractor possessing a certificate to administer and designated by a self-insurer to be the administrative agency for all or a portion of its claims; or

(2) A partnership or corporation possessing a master certificate to self insure, which administers its own claims and the claims of other affiliate or subsidiary self insurers issued affiliate or subsidiary certificates to self insure under the same master certificate number;

(3) A joint powers authority possessing a master certificate to self insure, which self administers in whole or part the claims of its affiliate public self insurers issued affiliate certificates to self insure under the same master certificate number of the joint powers authority; or

(4) The claims department of an insurance carrier admitted to transact workers' compensation insurance in California, which is exempt from the requirement to possess a certificate to administer under Labor Code Section 3702.1(a).

Administrative Director. The Administrative Director of the Division of Workers' Compensation within the Department of Industrial Relations.

(d) Administrator. A competent person pursuant to Section 15452 of these regulations, at an adjusting location, who is responsible for day-to-day management of an employer's self-insurance workers' compensation program. The responsibility includes but is not limited to, the making and reviewing of decisions relating to the furnishing of all workers' compensation benefits in accordance with law and the maintenance of the self insurer's claim records.

(e) Affiliate Certificate.

(1) A type of certificate to self insure issued to a private self insurer that has common ownership to another private self insurer holding a master certificate to self insure, but the affiliated certificate holder is not a subsidiary to the master certificate holder; or

(2) A type of certificate to self insure issued to a public self insurer that is a member of a joint powers authority for pooling of workers' compensation liabilities with the master certificate number issued to the joint powers authority.

(3) A type of certificate to self insure issued to a private self insurer that is a member of a group self insurer for pooling of workers' compensation liabilities under the master certificate number issued to the group self insurer.

(f) Alternative Composite Deposit. A security deposit system pursuant to Labor Code Section 3701.8 whereby all eligible private self insurers collectively secure, in whole or in part, aggregate self insured worker's compensation liabilities through the Self Insurer's Security Fund.

(g) Audit. Any examination of self insured workers' compensation claim files performed by or at the request of the Office of Self Insurance Plans pursuant to Labor Code Section 3702.6.

(h) Board of Trustees. In group self insurance, the representative body in a group self insurer selected by the group members to be responsible for managing the assets and directing the affairs of the group self insurer corporation and assuring the group self insurer, through the group members, is financially sound and able to meet the workers' compensation liabilities under the statutes and regulations applicable in California.

(i) Cancellation of Surety Bond. An act whereby the surety gives written notice to the Chief, as beneficiary of the workers' compensation self insurance surety bond, that the surety is terminating its contractual obligations under the named bond pursuant to Sections 996.320 and 996.330 of the California Code of Civil Procedure and the liability of the surety bond after the effective date of the cancellation is set forth in Section 996.360 of the California Code of Civil Procedure.

~~(j) Certificate to Self Insure. A Certificate of Consent to Self Insure issued to an employer pursuant to Section 3700(b) of the Labor Code.~~

~~(k) Certificate to Administer. A Certificate of Consent to Administer self insured workers' compensation claims issued to an administrative agency, except exempt insurance carriers, pursuant to Labor Code Section 3702.1.~~

Certificate to Self Insure. A Certificate of Consent to Self-Insure issued to an employer pursuant to Section 3700(b) of the Labor Code.

Chief. The Chief, Office of Self-Insurance Plans, in the Department of Industrial Relations.

(l) Claim File. A separate case file containing all pertinent documents and matters relating to a specific or companion work-injury claim. The claim file contents are specified in Section 15400 of these regulations.

(m) Claim Log. A manual or electronic listing of workers' compensation claims maintained by the self insurer or administrative agency for the self insurer. The claim log for private self insurers shall list each work injury claim by the calendar year in which the claim was reported to the employer or the claims administrator, whichever first occurred. The log for public self insurers shall list each work injury claim by the fiscal year in which the claim was reported. The claim log contents are specified in Section 15400.1 of these regulations.

(n) Compensation. Compensation as defined in Labor Code Section 3207.

(o) Contribution. The amount of payments required of each group member in order to fund the compensation and deposit obligations of the group self insurer.

(p) Core Group Member. Is an affiliate member of a group self insurer as defined by subsection (v) of this section that together with other specific members meet the aggregate financial requirements pursuant to Section 15472 of these regulations. Core group members of an existing group self insurer need not be the same Affiliate Group Certificate holders from year to year.

(q) Director. The Director of the Department of Industrial Relations.

(r) Exoneration of Surety Bond. The discharge of a surety from all past, present and future liability under its workers' compensation self insurance surety bond by the execution of a "Release of Surety", Form A4-24 (Rev. 11/92) by the Chief.

(s) First Aid. First Aid as defined in Labor Code Section 5401(a).

(t) Group Administrator. The individual or business entity authorized to serve as the representative of a group self insurer and its group members to execute the policies of the Board of Trustees of the group self insurer and manage the activities of the group self insurer corporation.

(u) Group Member. A private employer issued an Affiliate Certificate as a member in a group self-insurance program that has, in turn, been issued a Certificate to Self Insure as a group self insurer.

(v) Group Self Insurer. A private, non-profit, mutual benefit corporation, a private, non-profit charitable corporation, a private, non-profit public benefit corporation, or a private, non-profit religious corporation created as set forth in Section 15470 of these regulations and pursuant to Part 3 of Division 2 of Title 1 of the California Corporation Code. Said corporation shall be established for the sole purpose of operating a group workers' compensation self-insurance program to pool the California workers' compensation liabilities of two or more private employers in the same homogeneous grouping pursuant to Section 15473. A group self insurer issued a Certificate of Consent to Self Insure pursuant to Labor Code Section 3700(b) and these regulations are not intended to deem such a group self insurer to be an insurance company subject to regulations governing insurers contained in Title 10, California Code of Regulations, except as otherwise provided by statute and by Title 8, California Code of Regulations.

(w) Indemnity Agreement and Power of Attorney. The written agreement executed by each group member or proposed group member of a group self insurer pursuant to Section 15479 of these regulations.

(x) Indemnity Claim. A work-injury case which has or may result in any of the following benefits:

(1) Temporary Disability or salary in lieu thereof

- (2) Permanent Disability
- (3) Life Pension
- (4) Death Benefits
- (5) Vocational Rehabilitation
- (6) Supplemental Job Displacement Benefit Voucher

(y) Industry. Employer classification as determined using the first three digits of the North American Industry Classification System Code (NAICS Code), provided by the Department of Commerce, Bureau of Management and Budget.

(z) Joint Powers Authority. A public entity created by agreement of two or more public agencies pursuant to Division 7, Chapter 5, Article 1, Sections 6500 et seq. of the California Government Code. These regulations apply only to Joint Powers Authorities who have among their purposes for existence, the forming of workers' compensation liability pooling arrangements.

(aa) Labor Code. The Labor Code of the State of California.

(bb) Manager. The Manager, Office of Self-Insurance Plans, in the Department of Industrial Relations. (Synonymous with Chief, above. ~~See subdivision (ee), below.~~)

(ee) Medical-Only Claim. A work-injury case which does not result in compensable lost time but results in medical treatment beyond first aid.

Note: Payment of medical examinations pursuant to Labor Code Section 4600 will be considered a medical payment.

(dd) Open Claim. A work-injury case in which it appears that one or more future payments of workers' compensation benefits may be due.

Public Self Insurer or Public Self Insured Employer.

(1) Any county, city, school district, special purpose district, joint powers authority or other municipal corporation which has applied and received approval to be self insured by the Office of Self Insurance Plans.

(2) Any sub-agency of a public agency which is created by or pursuant to statute, ordinance, or other legislative act, including but not limited to planning commissions, library or park boards, commissions, and agencies which has applied and received approval to be self insured by the Office of Self Insurance Plans.

Qualified Actuary. A qualified actuary is any actuary that meets the minimum standards of experience, certification, licensure, insurance, and qualifications set forth in section 15209, subdivisions (a)(2) and (3), for private self-insurers or section 15481, subdivisions (a)(3) & (4), for self-insured groups.

(ee) Release of Surety Bond. Action of Chief of Self Insurance Plans by which a surety is exonerated. A released surety bond does not constitute part of the security deposit of a self insured entity.

(ff) Security Fund. The Self Insurer's Security Fund as established by Labor Code section 3742.

(gg) Self-Insurer. An individual public or private sector employer or joint powers authority or private group of employers that has been issued and lawfully holds a valid Certificate to Self-Insure its workers' compensation liabilities pursuant to:

(1) The provisions of Section 29(a), Chapter 586, Laws of 1917 and amendments thereto; and/or

(2) Labor Code, Section 3700(b) for private sector employers or 3700(c) for public sector employers.

(hh) Special Audit. Any audit performed other than that in accordance with Labor Code Section 3702.6.

(ii) Subsidiary Certificate. A type of certificate to self insure issued to a subsidiary of a self-insurer, where the self insurer holds the master certificate to self insure.

(jj) Termination of Surety Bond. See definition of "Cancellation of Surety Bond".

(kk) Work-Injury Claim. An injury that is reported or reportable to the Division of Labor Statistics and Research pursuant to Labor Code Sections 6409, 6409.1 and 6413.

~~(ll) Qualified Actuary. A qualified actuary is any actuary that meets the minimum standards of experience, certification, licensure, insurance, and qualifications set forth in section 15209, subdivisions (a)(2) and (3), for private self-insurers or section 15481, subdivisions (a)(3) & (4), for self-insured groups.~~

~~(mm) Actuarial Study. Also referred to as a 'study.' This is a complete actuarial study prepared by a qualified actuary presenting the full and complete results of the actuarial analysis and study performed by the actuary including, but not limited to, the requirements specified in section 15209 for private self-insurers or section 15481, for self-insured groups. The study will also serve as the basis for the completion of the actuarial summary and be attached to the actuarial summary.~~

~~(nn) Actuarial Summary. Also referred to as a 'summary.' This is a summary of the study prepared by the same qualified actuary that prepared the study. The summary is electronically filed with the Office of Self Insurance Plans and shall include the data specified in sections 15209 for private self insurers or section 15481, for self insured groups taken directly from the actuarial study.~~

~~(oo) Chief. The Chief, Office of Self Insurance Plans, in the Department of Industrial Relations.~~

~~(pp) Public Self Insurer or Public Self Insured Employer.~~

~~(1) Any county, city, school district, special purpose district, joint powers authority or other municipal corporation which has applied and received approval to be self insured by the Office of Self Insurance Plans.~~

~~(2) Any sub-agency of a public agency which is created by or pursuant to statute, ordinance, or other legislative act, including but not limited to planning commissions, library or park boards, commissions, and agencies which has applied and received approval to be self insured by the Office of Self Insurance Plans.~~

Note: Authority cited: Sections 54, 55, 3701.8 and 3702.10, Labor Code. Reference: Sections 59, 129, 3700, 3701, 3701.5, 3701.8, 3702, 3702.3, 3702.5, 3702.6, 3702.10, 3703, 3705, 3740-3747 and 3850, Labor Code; Section 6500, Government Code; and Sections 995.430, 996.320 and 996.330, Code of Civil Procedure; and 5002, 5003, 5059, 5060, 5061 and 5080, Corporations Code.

Title 8. Industrial Relations
Division 1. Department of Industrial Relations
Chapter 8. Office of the Director
Subchapter 2. Administration of Self-Insurance Plans
Article 3. Security Deposit Requirements

§15209. Actuarial Studies and Summaries.

(a) Current and former self-insurers, other than public self-insured employers, that are required to file a Self-Insurer's Annual Report, shall cause a qualified actuary to submit on their behalf to the Office of Self Insurance Plans (OSIP) an actuarial study and summary not later than May 1 of each calendar year with a valuation date of December 31 of the immediately prior calendar year. The summary shall be prepared and submitted via an online platform provided by OSIP with a copy of the complete actuarial study attached.

(1) In the absence of an actuarial study or summary for any private self-insurer that fully satisfies the criteria of this section received by the deadline set forth above, the Chief shall establish a security deposit amount on behalf of the self-insurer as the Chief determines appropriate based on consideration of all financial and loss information available to the Chief at the time.

(2) The actuarial study and summary shall be prepared and submitted by an actuary meeting each of the following qualifications:

(A) The actuary must be independent actuary with ~~current~~ no common ownership or financial interest in the entity that is the subject of the actuarial study and summary, and

(B) Within the past ten (10) calendar years the actuary must have a minimum of five (5) years of experience making California workers' compensation actuarial projections, and ~~who shall~~

(C) The actuary must have a designation of Fellow of the Casualty Actuarial Society (FCAS), or be a member of the American Academy of Actuaries (MAAA), or be a member of the Society of Actuaries who is qualified to sign a statement of actuarial opinion on loss reserves.

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(3) The qualified actuary or his/her employing actuarial firm shall maintain a minimum of ~~\$1 million~~ \$1,000,000 of professional liability and errors and omissions insurance coverage. Evidence of this coverage and limits must be submitted as a part of the actuarial study.

(4) Private self insurers shall not be required to file an actuarial study or actuarial summary in years when their current year filed Self Insurer's Annual Report

reports either: (A) 10 or fewer open claims, or (B) less than \$1,000,000 of total estimated future liabilities.

(b) The actuarial study shall identify the self insurer's losses at the undiscounted 'expected level' also commonly referred to as the undiscounted 'actuarial central estimate', including each of the following components; incurred but not reported (IBNR) liabilities, Allocated loss adjustment expense (ALAE), Unallocated loss adjusted expense (ULAE) and case reserves. The actuarial central estimate shall be reported at both the gross and net amounts of excess insurance values.

(c) The actuarial study shall identify the estimated future liabilities reported in the Private Self Insurer Annual Report filed by the self insurer's Third Party Administrator(s).

(d) The actuarial study and summary shall clearly identify any excess coverage by carrier, policy year and self-insured retentions, by year.

(e) The actuary shall declare in the study and the summary that the study and report may be used by the State of California and the Self-Insurers' Security Fund to set appropriate collateral and deposit amounts, and for any other regulatory purpose under these regulations.

(f) The actuarial study and summary shall specify that it is prepared for use by the Department of Industrial Relations, Office of Self Insurance Plans and the Self Insurers' Security Fund. The Office of Self Insurance Plans and the Self Insurers' Security Fund may share the study and report with consultants retained by the Department of Industrial Relations or the Self Insurers' Security Fund for official purposes in accomplishing the purposes of these regulations.

~~(g) The actuarial study shall be prepared covering a one year calendar period from January 1 through December 31 of each year.~~

~~(h) The actuarial study must include all of and only the self insured employer's California self-insured liabilities for the master certificate holder and all affiliate or subsidiary certificate holders related to the master certificate.~~

(ih) Failure by a self insurer to submit a timely actuarial study and summary shall constitute good cause grounds for revocation of the self insurer's self-insurance Certificate.

(ji) The Chief may accept or reject any actuarial study or summary that does not fully satisfy the criteria of this section and require a second study and summary by another qualified actuary that that does fully satisfy the criteria of this section be completed and submitted to OSIP at the self-insurer's expense.

Note: Authority cited: Sections 54, 55, 3701, 3701.8 and 3702.10, Labor Code.

Reference: Sections 54, 55, 59, 3700, 3701, 3701.5, 3701.8, 3702, 3702.2, 3702.8, 3702.9 and 3702.10, Labor Code.

Title 8. Industrial Relations
Division 1. Department of Industrial Relations
Chapter 8. Office of the Director
Subchapter 2. Administration of Self-Insurance Plans
Article 3. Security Deposit Requirements

§15210. Security Deposit.

(a) Public self insurers are not required to post or maintain a security deposit with the Director for workers' compensation liabilities.

(b) Individual Private self insurers shall post and maintain a security deposit, in accordance with the provisions of Labor Code Section 3701 and the requirements of Article 3 of this subchapter 2 and/or in accordance with Labor Code Section 3701.8 and Article 3.1 of this subchapter 2.

(c) The minimum required security deposit pursuant to Labor Code Section 3701 for existing, private self insurers shall be equal to the self insurer's losses at the undiscounted 'expected level' also commonly referred to as the undiscounted 'actuarial central estimate', including each of the following components: incurred but not reported (IBNR) liabilities, Allocated loss adjustment expense (ALAE), and Unallocated loss adjusted expense (ULAE), net of specific excess insurance coverage.

The required deposit may be increased at the Director's discretion as set forth in Article 3 of these regulations.

(d) New individual private self insurers shall initially post a security deposit pursuant to Labor Code Section 3701 in an amount equal to the greater of the following:

- (1) The prior three (3) years' incurred liability; or
- (2) The statutory minimum required by Labor Code Section 3701(b); or
- (3) A higher amount approved by the Director.

(e) The addition of a new subsidiary or affiliate private self insurer to the holder of an existing individual private Certificate to Self Insure shall initially post a security deposit pursuant to Labor Code Section 3701 in an amount equal to the greater of the following:

- (1) The average one year incurred liability for the new subsidiary or affiliate self insurer based upon the prior three years' incurred liability; or
- (2) A higher amount approved by the Director.

(f) Security deposit shall be posted in the form of:

- (1) A surety bond executed on State issued bond and rider forms pursuant to Section 15212 of these regulations;
- (2) An irrevocable letter of credit issued by a bank or savings institution or other financial institution pursuant to Section 15215 of these regulations;
- (3) Approved securities in the form of government issued or corporate issued securities, meeting the requirements of Section 15213 of these regulations;
- (4) Cash in trust deposited pursuant to requirements of Section 15214 of these regulations; or
- (5) Any combination of one or more of the above four types of security deposit.

(g) Failure of an individual private self insured employer to maintain the required amount of deposit or to post an acceptable form of deposit as set forth in this Article shall be good cause for assessment of civil penalties pursuant to Labor Code Section 3702.9(a) by the Chief and/or, in the Director's discretion, revocation of the Certificate to Self Insure.

(h) Failure of an individual private self insured employer to post and maintain the required amount of security deposit for a period of 60 days shall be good cause for the Chief to summarily revoke a Certificate of Consent to Self- Insure. The summary revocation of the Self Insurer's Certificate of Consent will provide for a 15-day notice of termination, without a hearing.

(1) Notwithstanding subsection (h) above, the individual private self insured employer may still request a hearing on the Chief's Revocation Order before the Director as provided in Article 11 of this subchapter 2.

(2) An individual private self insurer requesting a hearing pursuant to subsection (h)(1) shall be required to provide proof of workers' compensation coverage under a policy from an admitted carrier for the period of time without security deposit or proof of compliance with the Chief's request to post security.

Note: Authority cited: Sections 54, 55, 3701.8 and 3702.10, Labor Code. Reference: Sections 59, 3700, 3701, 3701.5, 3701.8, 3702, 3702.3, 3702.6, 3702.10 and 3740-3745, Labor Code.

Title 8. Industrial Relations

Division 1. Department of Industrial Relations

Chapter 8. Office of the Director

Subchapter 2. Administration of Self-Insurance Plans

Article 3. Security Deposit Requirements

§15210.1. Adjustments in the Amount of Security Deposit.

(a) Pursuant to Labor Code Section 3701, the security deposit requirement of each individual private self insured employer shall be reviewed by the Chief at least annually following receipt of the private Self-Insurer's Annual Report.

(b) The individual private self insurer shall post any annual increase or decrease in security deposit required pursuant to Labor Code Section 3701 indicated in the annual actuarial study and summary as specified by these regulations or as determined by the Chief due to an audit, change in the self-insured employer's program or based on a change in required deposit made by the Chief under these regulations. This deposit posting is due no later than 30 days from the date the written notice of security deposit demand is made.

(c) No reduction or decrease in security deposit shall be made without prior written authorization of the Chief. The Chief shall review each individual private certificate holder's annual report and the certificate holder's file no less frequently than annually to determine the extent to which a decrease in deposit, if any, may be authorized.

(d) For good cause, the Chief may require the individual private self insurer to post and maintain additional security deposit or adjust the required security deposit for a specific private self insurer above the actuarially determined expected losses also commonly known as the actuarial central estimate, including incurred but not reported (IBNR) liabilities, Allocated loss adjustment expense (ALAE), and Unallocated loss adjustment expense (ULAE) as set forth in Labor Code Sections 3701, 3701.7, and 3701.8. Good cause includes, but is not limited to, understated future liability of claims on the Self-Insurer's Annual Report; the lack of, or an inadequate or unacceptable, actuarial study or summary; a pattern of understated liabilities in claim files audited in an audit; failure to report all claims; poor administration of claims or payment of benefits due injured workers found in the audit results of the Office of Benefits Audits and Enforcement in the Division of Workers' Compensation or audits by the Office of Self Insurance Plans; lack of an effective safety and health program as indicated by final citations issued by the Division of Occupational Safety and Health showing repeat or willful violation of safety and health regulations; impairment of financial condition of the self insurer as determined by the Chief; failure to provide and maintain current and complete parental assumption and guarantees or board of director's resolutions; the result of evaluation of an application to self-insure; or to cover a period of unlawful self insurance; or being required to post security deposit in whole or part pursuant to Section 3701.8 of the Labor Code and Article 3.1 (commencing with Section 15220) of this subchapter 2.

(e) Whenever the Chief determines that a deposit increase is required, the Chief shall send written notice to the individual private self insurer pursuant to Labor Code Section 3701(b) and (j). Notice of the amount of deposit due shall create a perfected security interest for the Self Insurer's Security Fund.

(f) Any increase in the security deposit requirement for an individual private self insurer following the Chief's determination that estimated future liabilities had been understated on the private employer's Self Insurer's Annual Report, shall be reported to the Security Fund. The Security Fund shall be authorized to adjust the deposit assessment for the alternative composite deposit.

Note: Authority cited: Sections 54, 55, 3701.8 and 3702.10, Labor Code. Reference: Sections 59, 3700, 3701, 3701.5, 3701.7, 3701.8, 3702, 3702.3, 3702.6, 3702.10, 3740, 3741, 3742, 6319(f), 6401.7, Labor Code.

Title 8. Industrial Relations

Division 1. Department of Industrial Relations

Chapter 8. Office of the Director

Subchapter 2. Administration of Self-Insurance Plans

Article 13. Group Self Insurance

§15475. Board of Trustees.

- (a) Each group self insurer shall have a Board of Trustees that is responsible for all operations of the group self insurer.
- (b) Each trustee on the Board of Trustees shall be elected by the group members or, if each group member has a seat on the Board of Trustees, the trustee may be appointed by the group members. At least two-thirds of the trustees shall be employees or officers of the group members. No service provider, director, officer, or employee of a service provider, or person with a direct or indirect management or financial interest in a service provider of the group self insurer shall serve as a voting member of the Board of Trustees of the group self insurer. The Group Administrator may be a non-voting member of the Board of Trustees but shall not vote on any matters before the Board. Service providers of the group self insurer include, but are not limited to, all service providers described in Section 15475.1 of these regulations.
- (c) The duties of the Board of Trustees shall include the responsibility to approve or deny the request of any proposed member to join the group self insurer, subject to subsequent application and approval of the proposed group self insurer member by the Director of Industrial Relations.
- (d) The Board of Trustees shall take all necessary precautions to protect the assets of the group self insurer, including all of the following:
- (1) Designate a "Group Administrator" to administer the financial affairs and normal day-to-day operations of the group self insurer and ensure that there are no conflicts of interest or potential conflicts of interest involving the Board of Trustees, the Group Administrator, or any service providers utilized by the group self insurer, as provided by Section 15475.1;

The group administrator shall not be an owner, operator or employee of any member of the group self insurer or of the third party administrator handling the claims of the group self insurer.

- (2) Obtain fidelity coverage in an amount determined by the Board of Trustees to be sufficient to ensure the integrity of affiliate group member or group funds handled by the Trustees and employees of the group self insurer, and obtain errors and omissions insurance coverage sufficient to protect its interests. Evidence of such bond shall be provided to the Chief upon request. The Group Administrator shall obtain and maintain fidelity insurance sufficient to cover funds handled for

the group self insurer and errors and omissions insurance coverage sufficient to protect the group self insurer's and its members' interests.

(3) Contract with a third party claims administrator to work directly for the Board of Trustees to administer in California the workers' compensation claims of the group self insurer and require the third party claims administrator to carry fidelity insurance naming the group self insurer as beneficiary that is sufficient to protect the funds handled, and to carry errors and omissions insurance naming the group self insurer as beneficiary that is sufficient to protect against errors and omissions made in the claims handled.

(4) Manage disbursements for the payment of expenses of handling claims, administrative expenses, posting of security deposit, and other expenses necessary for operating the group self insurer;

(5) Appoint a financial institution and establish necessary accounts in California to handle the fiscal needs of the group self insurer and adopt a board resolution authorizing signature authority for each account;

(6) Immediately after the December 31 close of each reporting year, obtain an annual audit of the financial accounts and records of the each group self insurer by an independent, certified public accountant. The Group Administrator may not serve as the independent certified public accountant for the private group self insurer.

(7) Contract with an actuary that meets the requirements of Section 15481, subdivisions (a)(3) and (4) to conduct an annual actuarial review of the group self insurer's claims and produce a written actuarial study that projects ultimate liabilities of the group self insurer by program year at the undiscounted expected actuarial confidence level also commonly known as the undiscounted 'actuarial central estimate', inclusive of incurred but not reported (IBNR) liabilities, Allocated loss adjustment expense (ALAE), and unallocated loss adjustment expense (ULAE) to ensure that all claims and associated costs are recognized;

(8) Ensure that contributions are collected for each program year as required by Section 15484, subdivision (e)~~based upon projected losses calculated at the undiscounted expected actuarial confidence level, inclusive of incurred but not reported (IBNR) liabilities, Allocated loss adjustment expense (ALAE), and unallocated loss adjustment expense (ULAE), that all group members pay their requisite shares of the group self insurer's expenses, and that all group self insurer funds, including funds not immediately needed for the payment of current liabilities of the group self insurer, are handled pursuant to Section 15475.2 and/or invested pursuant to Section 15475.3. If factors reflecting loss histories such as experience modification calculations are utilized to modify group self insurer or individual member contributions, the contributions for the funding of group self insurer claims for the program year shall nonetheless be calculated at the~~

~~undiscounted expected actuarial confidence level, inclusive of incurred but not reported (IBNR) liabilities, Allocated loss adjustment expense (ALAE), and unallocated loss adjustment expense (ULAE) net of specific excess insurance coverage. The Board shall ensure that credit for contributions due to the group self insurer shall not be extended to any group member nor applied toward the delinquent contributions of another member.~~

(9) Ensure that funds collected from group members shall not be used for any purpose not directly related to the payment of compensation liabilities of the group self insurer, posting of security deposit, payment of assessments and penalties as a group self insurer or the reasonable expenses of operation of the group self insurer. Excess moneys not needed for current operation of the group self insurer may be invested by the Board of Trustees, at its discretion, only as provided by Section 15475.3 of these regulations.

(10) Hold meetings no less frequently than annually to adopt a budget for the upcoming year, approve contribution rates, and review the investment portfolio for compliance with these regulations;

(11) Ensure that the Group Administrator immediately reports to the Chief, in writing, any information that indicates the private group self insurer is no longer in compliance with statutory or regulatory requirements of the workers' compensation self insurance program or of any instance wherein the group self insurer terminates an affiliate group self insurer's group membership for cause.

(e) If specifically authorized in the group self insurer's bylaws, the Board of Trustees may delegate specific functions to the Group Administrator of the private group self insurer, including, but not limited to:

(1) Contracting with one or more third party claims administrators for handling of claims;

(2) Calculating the annual contribution rates to or other means of cost sharing to be charged each group member;

(3) Investing funds subject to Section 15475.3 of these regulations and any restrictions adopted by the Board of Trustees in addition to those contained in subsection (d);

(4) Reviewing and accepting applications from prospective members to the group self insurer and advising the Board if the prospective members do not fully meet the underwriting criteria for group membership;

(5) Executing the Agreements of Assumption and Guarantee For Group Members and the Indemnity Agreement on behalf of the group self insurer;

(6) Establishing accounts in California financial institutions and accounting procedures for controlling funds and ensuring accurate financial reporting with the financial institutions selected by the Board of Trustees.

Note: Authority cited: Sections 54, 55 and 3702.10, Labor Code. Reference: Sections 3700, 3700.1, 3701, 3701.5, 3702.1, 3702.2 and 3702.10, Labor Code.

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§15477. Surplus or Insufficient Funding.

(a) The Board of Trustees of a group self insurer shall not declare that surplus contributions collected in excess of the amount necessary to fund all obligations for any given program year will be refunded to group members unless the group self insurer's most recent annual certified, independently audited financial statement indicates that the group self insurer's assets exceed its liabilities and unless the group self insurer's current actuarial report indicates a surplus of group funds for each program year as indicated in subsections (a)(1) and (a)(2) below.

(1) The group self insurer may transfer excess funds to an escrow account at any time, but shall not declare surplus fund amounts or distribute any surplus funds to group members for any given program year sooner than 23 months after the close of the program year without express written consent from the Chief. Any such disbursements made without written consent from the Chief, including any subsequent disbursements from the same program year or disbursements from a subsequent program year, shall only be from a program year that remains funded at the amount required by Section 15484, subdivision (e) undiscouted expected actuarial confidence level including each of the following components; incurred but not reported (IBNR) liabilities, Allocated loss adjustment expense (ALAE), Unallocated loss adjusted expense (ULAE) net of specific excess insurance coverage for the remaining claims in that program year as stated in the most recent annual actuarial report calculated pursuant to Section 15481 of these regulations. Approval from the Chief is not required as long as the group self insurer's current actuarial report and current financial statement support the determination of the surplus amount, and as long as claim funding for each program year meets or exceeds the undiscouted expected actuarial confidence level amounts including each of the following components; incurred but not reported (IBNR) liabilities, Allocated loss adjustment expense (ALAE), Unallocated loss adjusted expense (ULAE) net of specific excess insurance coverage funding required by Section 15484, subdivision (e).

(2) Notwithstanding subsection (a)(1) of this section, the group self insurer may request the Chief to allow that funds be released sooner than 23 months after the end of a program year and/or that the determination of a program year's surplus be based upon the actuarial study conducted with a confidence factor of less than the funding required by Section 15484, subdivision (e) at the undiscouted expected level including each of the following components; incurred but not reported (IBNR) liabilities, Allocated loss adjustment expense (ALAE), Unallocated loss adjusted expense (ULAE) net of specific excess insurance coverage, and the Chief

may allow such a release of surplus funds upon a showing of good cause by the group self insurer. The Chief may require that a special audit be conducted, an independent actuarial study be completed at the group self insurer's expense, and/or other documentation be submitted to support the request from the group self insurer. In no event shall surplus funds be distributed sooner than 23 months after the completion of a program year without express written consent of the Chief.

(3) No reduction in contribution rates for group members shall be authorized unless supported by an actuarial study less than one year old conducted pursuant to Section 15481 of these regulations.

(b) If at the end of any program year member funds collected and investment income associated with any program year are insufficient to completely fund all estimated future claim liabilities and expenses at the required confidence level for any program year, unfunded amounts by program year shall be immediately reported to the Chief, along with a proposed plan to achieve correction of the deficiency. Any plan to correct the deficiency shall be subject to approval by the Chief. The plan may include, but is not limited to, any or all of the following:

(1) Reallocation of surplus group self insurer funds collected in other program years that are unnecessary for the payment of claims or expenses for the program year collected;

(2) Reallocation of investment earnings associated with other program years that are not necessary for the payment of claims or expenses in the program year in which the earnings are associated;

(3) One or more special assessments of all group self insurer members participating in the program year or years in which the deficiency exists to make up the funding insufficiency;

(4) Re-evaluation of past group member contribution rates and the projected plan for future contributions from members to properly collect past rating shortfalls, and/or a revised current and future contribution rating plan for group members for any period of time necessary to correct past and present rate inequities.

(5) Prohibition of the addition of new members into the group; suspension of any distribution of over-collected contributions or assessments and any earnings on investments; or, the immediate collection of all assessments or any portion of such assessments until the group self insurer is deemed by the Chief to be adequately capitalized in accordance with this section;

(6) An examination and restructuring of the group self insurer's operations, contracts with vendors, and finances by an outside qualified professional acceptable to the Chief;

(7) Any other action the Chief may determine appropriate to promptly correct the group's funding deficiency.

(c) If the plan to achieve prompt correction of the funding deficiency for all claims is not approved by the Chief, the Chief may order the Board of Trustees of the group self insurer to show good cause before the Director why it should not be ordered by the Director to (1) immediately assess the group members for the full amount of the funding deficiency and/or (2) order that any surplus funds distributed to group members during the previous twelve calendar months from the date of discovery of the funding deficiency by the group self insurer be immediately returned to the group self insurer; and/or (3) why the Director should not order the appointment of a conservator or liquidator for the group self insurer.

(d) If the Director determines that actions specified in subsections (b) and (c) of this section will not achieve full funding of all claim liabilities for the group self insurer, the Director may in his or her discretion order that an outside conservator or liquidator, including the Self Insurer's Security Fund, be appointed at the expense of the group self insurer to manage the financial affairs of the group self insurer and to take whatever steps may be necessary in order to return a financially troubled group self insurer to full financial solvency or to liquidate the group's liabilities.

Note: Authority cited: Sections 54, 55 and 3702.10, Labor Code. Reference: Sections 3700, 3701, 3701.5 and 3702.10, Labor Code.

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§15481. Actuarial Studies and Summaries.

(a) The administrator for current and former Self-Insured Groups that are required to file a Self-Insurer's Annual Report shall cause a qualified actuary to submit on the group's behalf to the Office of Self Insurance Plans (OSIP) a complete actuarial study by program year of its historical loss development and actuarial summary not later than April 15 of each calendar year with a valuation date of December 31 of the immediately prior calendar year. The summary shall be prepared and submitted via an online platform provided by OSIP with a copy of the complete actuarial study attached.

(1) The analysis and results of the actuarial study shall be presented to the group self-insurer's Board of Trustees and made available in written form to the Board of Trustees and to any present or former group member requesting a copy. The study shall be presented to the Group Administrator and the Board of Trustees not later than March 31 following the end of the group self insurer's program year.

(2) In the absence of an actuarial study or summary for any Self-Insured Group that fully satisfies the criteria of this section received by the deadline set forth above, the Chief shall establish a security deposit amount on behalf of the group as the Chief determines appropriate based on consideration of all financial and loss information available to the Chief at the time.

(3) ~~The actuary performing and submitting the actuarial study and summary shall be prepared and submitted by an actuary meeting each of the following qualifications:~~

(A) The actuary must be independent actuary with current no common ownership or financial interest in the entity that is the subject of the actuarial study and summary, and

(B) Within the past ten (10) calendar years the actuary must have a minimum of five (5) years of experience in performing actuarial projections involving making California workers' compensation claims, and shall be a member in good standing of the American Academy of Actuaries (MAAA), actuarial projections, and

(C) The actuary must have a designation of Fellow of the Casualty Actuarial Society (FCAS), or be a member of the American Academy of Actuaries (MAAA), or be a member of the Society of Actuaries

who is qualified to sign a statement of actuarial opinion on loss reserves.

(4) The qualified actuary or his/her employing actuarial firm shall maintain a minimum of \$1 million of professional liability and errors and omissions insurance coverage. Evidence of this coverage and limits must be submitted as a part of the actuarial study.

(5) Group self insurers shall not be required to file an actuarial study or actuarial summary in years when their current year filed Self-Insurer's Annual Report reports either: (A) 10 or fewer open claims, or (B) less than \$1,000,000 of total estimated future liabilities.

(b) The actuarial study shall identify the group self insurer's losses at the undiscounted 'expected level' also commonly known as the undiscounted 'actuarial central estimate' including each of the following components; incurred but not reported (IBNR) liabilities, Allocated loss adjustment expense (ALAE), Unallocated loss adjusted expense (ULAE) and case reserves. The expected losses shall be reported at both the gross and net amounts of excess insurance values. Included with the actuarial study shall be a separate page or pages with the following information for each program year reported on the Self Insurer's Annual Report:

(1) The amount of ultimate losses projected at the expected actuarial confidence level, inclusive of incurred but not reported (IBNR) liabilities, Allocated loss adjustment expense (ALAE), Unallocated loss adjusted expense (ULAE) in calculations for each of the program years covered by the annual report. The expected losses shall be reported at both the gross and net amounts of excess insurance values;

(2) The amount of contributions collected from affiliate group members for each of the program years covered by the annual report; and

(3) The amount of any surplus funds distributed to affiliate group members for the program years covered by the annual report; and.

~~(4) The Board of Trustees shall ensure that contribution rates for the initial funding of claims for each program year shall be based on the actuarial projection at the expected level, including each of the following components; incurred but not reported (IBNR) liabilities, Allocated loss adjustment expense (ALAE), Unallocated loss adjusted expense (ULAE) as provided by Section 15475(d)(8).~~

~~(c) The actuarial study shall reference and be based on~~ identify the estimated future liabilities reported in the Private Self Insurer Annual Report filed by the group self insurer's Third Party Administrator(s).

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(d) The actuarial study and summary shall clearly identify any excess coverage by carrier, policy year and self-insured retentions, by year.

(e) The actuary shall declare in the study and the summary that the study and report may be used by the State of California and the Self-Insurers' Security Fund to set appropriate collateral and deposit amounts, and for any other regulatory purpose under these regulations.

(f) The actuarial study and summary shall specify that it is prepared for use by the Department of Industrial Relations, Office of Self Insurance Plans and the Self Insurers' Security Fund. The Office of Self Insurance Plans and the Self Insurers' Security Fund may share the study and report with consultants retained by the Department of Industrial Relations or the Self Insurers' Security Fund for official purposes in accomplishing the purposes of these regulations.

~~(g) The actuarial study shall be prepared covering a one year calendar period from January 1 through December 31 of each year.~~

~~(h)~~(g) The actuarial study must include all of and only the group self insurer's California self-insured liabilities for the master certificate holder and all affiliate or subsidiary certificate holders related to the master certificate.

~~(h)~~(h) Failure by a group administrator to cause a timely actuarial study and summary to be submitted on the group's behalf shall constitute good cause grounds for revocation of the group self insurer's self-insurance Certificate.

~~(i)~~(i) The Chief may accept or reject any actuarial study or summary that does not fully satisfy the criteria of this section and require a second study and summary by another qualified actuary that does fully satisfy the criteria of this section to the Chief be completed and submitted to OSIP at the self-insurer's expense.

Note: Authority cited: Sections 54, 55 and 3702.10, Labor Code. Reference: Sections 3700, 3701, 3701.5 and 3702.10, Labor Code.

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§15484. Continuing Financial Capacity of Group Self Insurers.

(a) Each group self insurer shall submit annually the group's un-audited financial statement to the Chief by March 1. The group self insurer shall obtain a current certified, independently audited financial statement complete with all notes and schedules. The financial statement shall be prepared according to Generally Accepted Auditing Principles (GAAP) and shall be submitted to the Chief by July 1 following the end of the program year.

(b) The group self insurer's financial statement for each year shall include exhibits indicating specific amounts collected as group member contributions and earned from investments, as well as specific amounts for the year reported for the following administrative costs:

- (1) Fees and commissions paid to the Group Administrator
- (2) Commissions paid to brokers
- (3) Fees paid to the third party administrator
- (4) Premium paid for excess insurance
- (5) Premium paid for fidelity and errors and omissions coverage
- (6) Fees paid for surety bonds, letters of credit, or any other security deposit related cost
- (7) Fees paid to actuaries
- (8) Fees paid to accountants
- (9) Regulatory costs
- (10) Taxes
- (11) Other expenses

(c) Each group self insurer shall ensure that group members maintain their suitability for group self insurer membership as follows:

(1) Annually obtaining current certified, independently audited financial statements or reviewed financial statements together with all schedules and notes showing that the core members of the group self insurer meet in aggregate the financial requirements provided in Section 15472(a) of these regulations;

(2) For each other group member, the group self insurer may annually determine the group member's suitability for membership in the group self insurer by review of a tax return, credit report, or other appropriate documentation as specified in the bylaws of the group self insurer.

(d) The Group Administrator shall submit to the Chief on request any financial documentation received pursuant to subsection (c), and shall advise the Chief of any group member not submitting its financial documentation to the group self insurer.

(e) Each group self insurer shall demonstrate sufficient income from annual member contributions and/or assessments to fund:

(1) One and one half (1.5) times the group self insurer's medical and most recent three-year average paid indemnity expenditures for the and medical claims expenses as reported on their current year filed Self Insurer's Annual Report;

(2) The expected administrative and operating expenses needed to meet the group self insurer's day to day financial obligations during the current calendar year; and

(3) The continued posting of the required security deposit; and

(4) Any additional amount determined by the Chief, upon a showing of good cause, to ensure adequate funding of the group self insurer.

(f) The Group Administrator shall immediately advise the Chief in writing if the group self insurer's core members do not meet in aggregate the financial requirements set forth in Section 15472(a) of these regulations.

(g) A group self insurer's solvency is presumed impaired if any of the following occurs:

(1) There is a marked reduction in financial strength as evidenced by the findings in the annual audit by the independent certified public accountant;

(2) The group self insurer fails to submit a financial statement pursuant to subsection (a) of this section;

(3) The Group Administrator fails to submit documentation as provided by subsection (d) to substantiate that core members meet financial requirements as set forth in subsection (c)(1) and Section 15472(a);

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(4) The contribution rates, rating plan, or contributions fails to generate enough sufficient funds to cover the costs of projected claims and administrative costs for the group self insurer as required by requirements of subsection (e) of this Section.

(h) Demonstration of impaired solvency of the group self insurer as described in subsection (g) of this section is good cause for increased security deposit or involuntary revocation of a Certificate of Consent to Self Insure, Interim Certificate of Consent to Self Insure, and/or Affiliate Certificate of Consent to Self Insure.

(i) The Group Administrator shall, on or before March 1st of each year, file with the Office of Self Insurance Plans the budget for the group's current year together with:

- (1) The rates of contribution from members in effect for the current year,
- (2) Any deviation from these rates,
- (3) All actuarial reports and other documents supporting the rates of contribution,
- (4) All minutes of board of trustees meetings or other evidence of board of trustees action where rates of contributions from members were discussed or approved.

(j) The Group Administrator shall file any changes in the rates of contribution from members with documents listed in subsection (i), (1) through (4) within 30 days of such change.

Note: Authority cited: Sections 54, 55 and 3702.10, Labor Code. Reference: Sections 59, 3700, 3701, 3702 and 3702.10, Labor Code.

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§15496. Group Self Insurer's Security Deposit.

(a) Each group self insurer shall post and maintain a security deposit with the Director upon approval of its Certificate of Consent to Self Insure. The security deposit amount shall be in accordance with the provisions of this section, and, once a Self Insurer's Actuarial Study and Summary has been filed, no less than as determined pursuant to Labor Code Section 3701, calculated as the undiscounted expected actuarial confidence level including each of the following components: incurred but not reported (IBNR) liabilities, Allocated loss adjustment expense (ALAE), Unallocated loss adjusted expense (ULAE) net of specific excess insurance coverage.

The required deposit may be increased at the Director's discretion as set forth in Article 3 of these regulations.

(b) Upon approval for a Certificate of Consent to Self Insure, the group self insurer, in the manner provided in subsection (e), shall post an initial security deposit in an amount no less than the greater of the following:

- (1) The statutory minimum amount pursuant to Labor Code Section 3701(c);
- (2) No less than 60% of one year ultimate losses based on the actuarial report submitted with the application for the group self insurer;
- (3) A higher amount approved by the Director.

(c) If the group self insurer initially posts a security deposit of 60% of one year's projected ultimate losses in accordance with subsection (b)(2), the group self insurer shall ensure that the amount posted is no less than the undiscounted expected actuarial confidence level including each of the following components; incurred but not reported (IBNR) liabilities, Allocated loss adjustment expense (ALAE), Unallocated loss adjusted expense (ULAE) net of specific excess insurance coverage after one year of self insurance by increasing its security deposit by an amount no less than 25% of one year's projected ultimate losses in three equal installments. The installments shall be at intervals of 120 days or less, with the first installment being posted no later than 120 days after the effective date of self insurance.

(d) Notwithstanding subsection (c), each new affiliate member of the group self insurer issued an Interim Certificate or an Affiliate Certificate of Consent to Self Insure whose exposure was not contemplated in the calculation of the initial security deposit shall post an additional amount equal to an average year's incurred losses over the past three years

as documented by the applicant's prior insurance carrier or, if the applicant is a new employer with no loss history, calculated based on one year's projected contributions. The increase in security deposit for the new affiliate group member shall be posted within 30 days of issuance of the Interim Certificate or Affiliate Certificate of Consent to Self Insure.

(e) The group self insurer's security deposit shall be posted in one of the following manners:

(1) A surety bond executed on State issued bond and rider forms pursuant to Section 15212 of these regulations;

(2) An irrevocable letter of credit issued by a bank, credit union, savings institution or other financial institution pursuant to Section 15215 of these regulations;

(3) Approved securities in the form of government issued or corporate issued securities, meeting the requirements of Section 15213 of these regulations;

(4) Cash in trust deposited pursuant to requirements of Section 15214 of these regulations; or

(5) Any combination of one or more of the methods described in subsections (g)(1) through (g)(4) of this section.

(f) Failure to maintain the required amount of security deposit or to post an acceptable form of deposit as set forth in this Article shall be good cause for assessment of civil penalties pursuant to Labor Code Section 3702.9(a) and/or revocation of the Certificate of Consent to Self Insure pursuant to Labor Code Section 3702, and Section 15423 of these regulations.

(g) A group self insurer or group member requesting a hearing pursuant to Article 11 shall provide proof of workers' compensation coverage under a policy from an admitted carrier for the period of time without the required security deposit or deposit increase, or proof of compliance with the Chief's request to post security.

Note: Authority cited: Sections 54, 55, 3701.8 and 3702.10, Labor Code. Reference: Sections 59, 3700, 3701, 3701.5, 3701.8, 3702, 3702.3, 3702.6, 3702.10, 3740, 3741, 3742, 3743, 3744 and 3745, Labor Code.

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§15497. Adjustments in the Amount of a Group Self Insurer's Security Deposit.

(a) Each group self insurer's security deposit requirement pursuant to Labor Code Section 3701 shall be reviewed by the Chief at least annually following receipt of the private group's Self Insurer's actuarial study and summary. If following the receipt of the group self insurer's actuarial study and summary an increase in security deposit is required, the increase shall be calculated pursuant to Labor Code Section 3701 and Section 15496(a) of these regulations and shall be posted no later than 30 days from the date the written notice of security deposit demand is made.

(b) In addition to any increase in the security deposit pursuant to subsection (a), the Chief may require the group self insurer to post additional amounts pursuant to Section 15496 in the event that new affiliate members have been added to the group self insurer but have not yet reported a full year of losses, in the event of audit increases pursuant to Section 15301, or in the event of a change in the deposit rate pursuant to Sections 15497 or 15497.1.

(c) No group self insurer shall reduce its security deposit based on calculations pursuant to Section 15496(a) without prior written authorization from the Chief.

(d) For good cause, the Chief may require a group self insurer to increase its security deposit at any time. Good cause includes, but is not limited to, impairment of financial condition of the self insurer as determined by the Chief, increases in group membership, increases in losses as indicated in Self Insurer's Annual Report, increases in losses as indicated in the actuarial study and summary or by audit over losses projected in actuarial reports, or failure of the group self insurer to maintain total assets greater than its total liabilities.

(e) In the event that a security deposit increase is required and upon sending by the Chief to the group self insurer a letter demanding the increase, a perfected security interest in the group self insurer's assets to the extent of any unsecured portion of the group self insurer's incurred liabilities shall be created in favor of the Director pursuant to Labor Code Section 3701(j).

Note: Authority cited: Sections 54, 55, 3701.8 and 3702.10, Labor Code. Reference: Sections 59, 3700, 3701, 3701.5, 3701.7, 3701.8, 3702, 3702.3, 3702.6, 3702.10, 3740, 3741, 3742, 6319(f) and 6401.7, Labor Code.