

Self Insurance Group Affiliate Member Responsibilities

As a member of a Self Insurance Group (SIG), there are certain legal responsibilities that you must be aware of and which remain enforceable even in the event of termination from a SIG. The purpose of this letter is to provide guidance to SIG members, boards, and administrators of these ongoing responsibilities.

Member Joint and Several Liabilities

Each member of a SIG is responsible for paying its respective contributions and assessments to the SIG. In addition, each member of a SIG is jointly and severally liable for the obligations of other members and the SIG as a whole. This means that each member has assumed individual responsibility for *all* of the SIG's workers' compensation liabilities. Thus, in the event that any member fails to pay its premiums or share of an assessment, the other members remain liable to make up the shortfall.

The administrator retained by a SIG performs the rating and underwriting functions for the SIG. These duties are performed under the supervision of the SIG's Board of Trustees who have the responsibility to insure rates charged and collected are sufficient to cover all claims liabilities and operating expenses.

If a SIG sets its rates at a level too low, or provides discounts or ex-mods to members in the underwriting process, the SIG may not collect enough premiums to cover its operating and compensation liabilities. If the SIG's liabilities exceed its assets, a deficit exists which must be made up by, or corrected by an assessment to the members. The members of the SIG are jointly and severally liable for any resulting shortfall that the SIG experiences. The risk that results from underpricing the business or granting excessive discounts falls directly to the members.

Enforceability of Member Obligations

The SIG has the authority and ability to take legal action to collect any amount owed to the SIG by a defaulting member. In the event a SIG defaults on its workers' compensation obligations, the Department of Industrial Relations (DIR), Office of Self Insurance Plans (OSIP) has the right to enforce members' joint and several contribution and assessment obligations by filing legal claims, including liens against members' real or personal property in order to collect the defaulting SIG's workers' compensation liabilities.

If a SIG defaults, its obligation to pay injured worker's compensation claims is transferred to the Self Insured Security Fund (Fund). However, transfer of claims to the Fund does not mean that SIG members are relieved of liability. The Fund has the statutory right and responsibility to recover from members the funds needed to pay all claims.

Termination of Membership from Self Insurance Group

Members may terminate from a SIG voluntarily or involuntarily. However, in either instance, **60 days** advance notice of termination must be provided to OSIP before termination becomes effective. Members should refer to their SIG's policies for notice requirements and possible penalties specific to their SIG that may exist for early termination of membership.

Member Financial Obligations Continue After Termination

Termination of membership in a SIG does not terminate or relieve a member's obligation to pay appropriate contributions and assessments to the SIG that have been incurred or are due during the termination notice period.

Additionally, the member is still jointly and severally liable for all obligations of the SIG for all program years the member participated in the SIG. Thus, even after termination, a former member remains liable for assessments, contributions, and the entirety of the SIG's workers' compensation obligations incurred during the program years for their period of coverage as a member of the SIG. These obligations can be enforced by the SIG through the legal mechanisms summarized above.

Requirement to Provide Workers' Compensation Insurance

California law requires all employers to have workers' compensation coverage. Any member leaving a SIG must provide OSIP proof of such coverage within **45 days** of membership cancellation or termination. Failure to have workers' compensation coverage is a criminal offense, subject to a number of penalties including substantial fines and/or imprisonment.

Member's Right to Financial Statements

Current regulations, CCR §15405(a)(3) provide that SIG members have the right to obtain a copy of the SIG's most recent independently audited annual financial statement upon written request.