

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.

Adjusting Location. The office address designated in accordance with Section 15402 of these regulations where the named administrator of the self-insurer fulfills his/her function.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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

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.

Closed Claim. A work-injury claim in which future provision of benefits cannot be reasonably expected to be due.

Compensation. Compensation as defined in Labor Code Section 3207, which includes every benefit or payment conferred by Division 4 of the Labor Code on an injured employee or the employee's dependents.

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

Director. The Director of the Department of Industrial Relations.

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.

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

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.

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.

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. These regulations are not intended to deem a group self-insurer issued a Certificate of Consent to Self-Insure pursuant to Labor Code Section 3700, subdivision (b) 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.

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.

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, including benefits provided under Labor Code Sections 4800 and 4850
- (2) Permanent Disability
- (3) Life Pension
- (4) Death Benefits
- (5) Vocational Rehabilitation
- (6) Supplemental Job Displacement Benefit Voucher

Industry. Employer classification as determined using the first three (3) digits of the North American Industry Classification System Code (NAICS Code), provided by the United States Department of Commerce, Bureau of Management and Budget.

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.

Labor Code. The Labor Code of the State of California.

Manager. The Manager, Office of Self-Insurance Plans, in the Department of Industrial Relations. (Synonymous with Chief, above.)

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.

Office of Self-Insurance Plans. The Department of Industrial Relations, Office of Self-Insurance Plans, that is responsible for the oversight and regulation of Workers' Compensation self-insurance programs under these regulations.

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.

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.

Security Fund. The Self-Insurer's Security Fund as established by Labor Code section 3742.

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.

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

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.

Termination of Surety Bond. See definition of “Cancellation of Surety Bond”.

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.

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.

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§ 15203. Applications and Required Forms.

(a) Application forms for individual Certificates of Consent to Self-Insure and other required self-insurance forms are available on the website of the Office of Self-Insurance Plans at <http://dir.ca.gov/osip/>. Every employer desiring to procure an initial, individual private or public certificate to self-insure its workers' compensation liabilities shall make application on:

- (1) Form A-1 (1-2016) for private individual employer applicants seeking an individual Certificate to Self-Insure;
- (2) Form A-2 (1-2016) for public employer applicants;
- (3) Form A-3B (1-2016) for an interim self-insurer seeking a permanent Certificate to Self-Insure.

(b) A new application may be required when an existing, individual self-insurer reincorporates, merges, changes ownership, or adds a new or separate subsidiary or affiliate to its existing workers' compensation self-insurance program. In some cases, it may be possible to amend and transfer an existing certificate without a new application, which decision shall be made by the Chief.

(c) A complete application to self-insure by an individual, private employer (Form A-1 (1-2016)) shall include all attachments requested on the application form itself, and, as applicable, the following:

- (1) A current, certified, independently audited financial statement complete with all schedules and notes for the past three (3) years.

The application of a private sector subsidiary or affiliate does not require submission of a financial statement;

- (2) An unaudited financial statement or published quarterly report, or a consolidated financial statement for the current year or portion thereof;
- (3) A Guaranty of Workers' Compensation Liabilities (Form A-4 (1-2016)) for each self-insurer applicant executed by the parent employer, majority owner, or partners;
- (4) A Corporate Resolution (Form A-5 (1-2016)) authorizing the application to self-insure and empowering employees or officers of the applicant employer to sign the

application form and any other necessary documents on behalf of the applicant employer and execute a Guaranty of Workers' Compensation Liabilities (Form A-4 (1-2016));

(5) Original Certificates of Status or other appropriate registration documents showing that the applicant employer is licensed or registered to do business in California;

(6) A certification that the applicant has implemented an effective injury and illness prevention program and contact name of the person responsible for overseeing the applicant's safety services pursuant to Section 15353 of these regulations; and

(7) Payment of any required application filing fee.

(d) A complete application to self-insure by a public employer (Form A-2 (1-2016)) shall include all attachments requested on the public sector application form and, as applicable, the following:

(1) A Guaranty of Workers' Compensation Liabilities (Form A-4 (1-2016)) for the predecessor agency due to a unification, merger, realignment of the boundaries of an existing self-insured public agency, or name change by the successor or surviving public agency;

(2) A Corporate Resolution (Form A-5 (1-2016)) authorizing the application to self-insure and empowering employees or officers of the applicant employer or joint powers authority to sign the application form and any other necessary documents on behalf of the applicant.

(3) Each public applicant shall indicate the proposed start up date of its self-insurance program as part of its application.

(e) A complete application to self-insure on a Form S-1 (1-2016) by a private group of employers shall include all information and documents as indicated in Section 15482 of these regulations.

(f) A complete application to self-insure on a Form S-2B (1-2016) by each member of a group self-insurer shall include all information as indicated in Section 15482.1 of these regulations.

(g) The Chief shall issue a Certificate of Consent to Self-Insure to an approved joint powers authority that pools the workers' compensation liabilities of its public agency members and the master certificate number shall be assigned to the joint powers authority. Each approved member of the joint powers authority shall be issued an affiliate certificate numbers under the certificate number issued to the joint powers authority.

(h) Upon receipt of a complete private individual employer application, the applicant will be notified within 21 days of the Director's decision to allow or deny self-insurance or to advise that the application is deficient. A notice indicating that the application is deficient will include a list of items required to be included or completed.

(i) Upon receipt of a complete public entity application, the applicant will be notified within 21 days of approval or denial of application.

Note: Authority cited: Sections 54, 55, 59 and 3702.10, Labor Code. Reference: Sections 3700, 3700(b), 3701, 3702, 3702.5 and 6401.7(a), Labor Code.

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§ 15203.2. Continuing Financial Capacity for Individual Private Self-Insurers.

(a) Each individual private self-insurer holding an active or revoked Certificate of Consent to Self-Insure shall submit annually via an online platform at <http://www.dir.ca.gov/osip> a copy of the employer's current, certified, independently audited financial statement complete with all notes and schedules. If the individual private self-insurer or former self-insurer did not prepare a current, certified, independently audited financial statement of its financial condition, or of a parent or holding company's financial condition if a Guaranty of Workers' Compensation Liabilities (Form A-4 (1-2016)) has been executed on its behalf by that parent or holding company pursuant to Section 15211.2 of these regulations, the self-insurer or former self-insurer shall advise the Chief in writing and submit a financial statement prepared by an independent certified public accountant. Failure to submit a qualifying financial statement pursuant to this section may result in an increased security deposit requirement pursuant to subsection (c) and/or revocation of the Certificate of Consent to Self-Insure for good cause pursuant to Labor Code Section 3702.

(b) Any joint powers authority which is solely responsible for the self-insurance claims of its public members shall submit annually to the Chief a consolidated report of its financial condition and/or, if available, a current, certified, independently audited financial statement complete with all notes and schedules.

(c) Impairment of solvency of a current or former private individual self-insured employer, indicated by a marked reduction in financial strength, or the lack of an independently prepared, audited financial statement, is good cause for an increased security deposit pursuant to Section 15210.1 of these regulations and/or involuntary revocation of a Certificate of Consent to Self-Insure, an Affiliate Certificate, or a Subsidiary Certificate pursuant to Labor Code Section 3702.

(d) After July 1, 1994, all private individual employer applicants for a master Certificate of Consent to Self Insure shall demonstrate and maintain a current net worth of at least \$5,000,000 and average net income for the preceding 5 years of at least \$500,000.

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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§ 15203.3. Resolution To Authorize Self-Insurance for an Individual Private Employer.

(a) The Corporate Resolution to authorize self-insurance of workers' compensation (Form A-5 (1-2016)) required pursuant to Section 15203(c) of these regulations as part of the application for a certificate to self-insure by any individual private employer shall be adopted by the private employer's Board of Directors or the general partners of an applicant partnership or joint venture, or owner of an applicant sole proprietorship. The resolution to authorize self-insurance shall include the following:

(1) A statement identifying the applicant by corporate or other legal name, the state of registration, and the date that the resolution was adopted;

(2) Identification by title of appointed officers or other company employees authorized to sign the application, execute any and all documents required for the application, and do subsequent acts required to maintain self-insurance approval.

(b) If an individual private self-insurer reincorporates, merges, or changes its identity, a new resolution shall be submitted to the Chief within 30 days of the change. The resolution shall confirm and authorize the maintenance of the self-insurer's responsibility under the successor's identity. The Chief may extend the period of time to submit the resolution for good cause.

(c) The Chief shall provide a model Corporate Resolution (Form A-5 (1-2016)) as part of the application form and will provide a model resolution for a non-corporate entity upon request.

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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§ 15203.5. Agreement and Undertaking for Security Deposit.

- (a) Each private individual employer applicant for self-insurance shall execute an Agreement and Undertaking For Security Deposit (Form A-6 (1-2016)) as part of the application process.
- (b) Each security deposit shall be posted in accordance with the provisions of the Agreement and Undertaking For Security Deposit (Form A-6 (1-2016)).
- (c) The form of such Agreement and Undertaking For Security Deposit (Form A-6 (1-2016)) shall be supplied by the Chief as part of the application (Form A-1 (1-2016)) for an individual private employer).
- (d) The Agreement and Undertaking for Security Deposit (Form A-6 (1-2016)), included as part of the application shall confirm the applicant employer's agreement to secure incurred liability for the payment of compensation as a condition to issuance of a Certificate of Consent to Self-Insure by posting a security deposit with the State of California to be held by the Department of Industrial Relations in trust for the applicant employer, with power to the Director of Industrial Relations to order the sale or use of said security deposit to pay any compensation that may become due and of which said employer may be in default.

Note: Authority cited: Sections 54, 55 and 3702.10, Labor Code. Reference: Sections 59, 3701, 3701.5 and 3702.10, Labor Code.

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§ 15203.6. Delayed Start-up of a Self-Insurance Program.

(a) The Certificate of Consent to Self-Insure for a public or individual private employer shall be initially valid for six months after the date of approval by the Director. If the self-insurer has not initiated its self-insurance program within the initial six month period, the approval of the certificate to self-insure shall be void and a new application shall be filed for approval.

(b) An individual private employer applicant that fails to initiate a self-insurance program within six months of notification of approval by the Director may be required to establish current good standing with the Secretary of State and to provide current financial information before issuance of a Certificate of Consent to Self-Insure.

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

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§ 15203.7. Documentation of Consent to Self-Insure and Notice to Employees of Self-Insured Status.

(a) The original Certificate of Consent to Self-Insure or a copy of the original Certificate of Consent to Self-Insure issued to each private individual self-insured employer or public self-insured employer shall be prominently displayed at the self-insurer's principal place of business in California.

(b) Notice to employees of workers' compensation coverage as required by Labor Code Section 3550 shall be accomplished by display of a copy of the self-insurer's Certificate of Consent to Self-Insure accompanied by a notice stating the name of the person(s) or administrative agency responsible for claims adjustment.

(c) If a self-insurer is required to provide evidence of its approved self-insured status to prove compliance with Labor Code Section 3700, the Chief shall provide a Certification of Self-Insurance upon request from the certificate holder. Whether or not an employer is self-insured can be determined electronically at the website of the Office of Self-Insurance Plans at <http://dir.ca.gov/osip/>. Beginning April 1, 2009, there is a ten dollar (\$10) fee for signed certification of self-insured status requested by third parties.

Note: Authority cited: Sections 54, 55 and 3702.10, Labor Code. Reference: Sections 59, 3550, 3602, 3700, 3701, 3702 and 3702.10, Labor Code.

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§ 15203.10. Reinstatement of a Certificate of Consent to Self-Insure.

(a) The Certificate of Consent to Self-Insure of an individual private or public self-insurer, that has had its self-insurance privilege terminated because of a legal change in business or corporate structure may be reinstated without lapse, providing the employer can re-qualify for self-insurance.

(b) To request reinstatement of a Certificate of Consent to Self-Insure without a lapse in self-insurance coverage, the applicant shall submit to the Chief a statement that the applicant assumes and guarantees all workers' compensation liabilities incurred during its prior period of self-insurance and will be responsible for any additional self-insured liabilities incurred after termination of its Certificate of Consent to Self-Insure. The Chief shall accept the statement of the employer's assumption of all past liabilities if signed by a corporate officer, attested to by the corporate secretary, and sealed with the corporate seal. If the statement is approved by the Chief, the applicant must submit within 90 days of the approval as part of the application a Guaranty of Workers' Compensation_Liabilities fully executed pursuant to Section 15211.2 of these regulations. The Guaranty of Workers' Compensation_Liabilities must be submitted before the Certificate to Self-Insure may be reinstated.

(c) A self-insured entity that has had its Certificate of Consent to Self-Insure voluntarily revoked, may request to become an active self-insurer again by making their request for re-activation of their Certificate of Consent to Self-Insure in writing to the Chief. The Chief may re-activate the Certificate of Consent to Self-Insure provided the former self-insurer is current in filing all required reports, and is otherwise in full compliance with their responsibilities related to self-insurance, or upon the entity becoming current in all filing and compliance responsibilities. No further application or documents shall be required provided all previously filed documents are currently accurate at the time of the request to reactivate their status as actively self-insuring their workers' compensation liabilities. A certificate that has been reactivated shall not cover any workers' compensation claims or liabilities that arise during the period between the date of prior revocation and the date the certificate is reactivated. All claims during the period between the two periods of self-insurance must have been covered by an insurance policy.

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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§ 15204. Application Filing Fee.

(a) Each private employer making application for an individual Certificate of Consent to Self-Insure shall, at the time of filing the application, pay a non-refundable filing fee of \$500.

(b) Any subsequent filing of an application by an existing private individual self-insurer to add a new subsidiary or affiliate, or required due to merger, acquisition, or reincorporation shall be considered a new application and shall be subject to the payment of the fees set forth in subsection (a).

(c) No application filing fee shall be required from a public entity making application for a Certificate to Self-Insure.

Note: Authority cited: Sections 54, 55 and 3702.10, Labor Code. Reference: Sections 59, 3700, 3702.5 and 3702.10, Labor Code.

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§ 15205. Interim Certificates.

(a) The Chief may issue an Interim Certificate of Consent to Self-Insure to a subsidiary or affiliate of an existing private individual self-insurer or an existing public agency self-insurer. The Interim Certificate of Consent to Self-Insure will be issued for a period not to exceed 180 days. A Certificate of Consent to Self-Insure to replace the Interim Certificate shall not be issued unless a completed application and accompanying documents required by Section 15203 and the application fee required by Section 15204 are submitted to the Chief within 180 days of the effective date of the Interim Certificate.

(b) To qualify for an Interim Certificate, the existing private individual self-insurer must demonstrate the following:

(1) Compliance with the requirements of Section 15203.2;

(2) The private self-insurer holding the Master Certificate of Consent to Self-Insure has furnished proof satisfactory to the Chief of financial responsibility and ability to guarantee the payment of any compensation due; and

(3) The subsidiary or affiliate being added to the self-insurance program does not represent more than 50% of the annual payroll of the existing self-insured as reported on the most recent Self-Insurers' Annual Report.

(c) A request for an Interim Certificate shall be made by the existing public agency or individual private self-insurer in writing to the Chief and provide the following information on each subsidiary or affiliate new to the self-insurance program:

(1) The full legal name, state of incorporation, and Federal Tax Identification Number;

(2) The requested effective date of the Interim Certificate;

(3) Documentation of the total annual payroll of the subsidiary or affiliate during the last 12 months and of the dates for which the payroll information represents or for the latest 12-month period for which payroll figures are available.

(4) A statement that the Master Certificate holder shall be financially responsible for payment of all workers' compensation claims arising out of the period of time its subsidiary or affiliate is granted an Interim Certificate.

Note: Authority cited: Sections 54, 55 and 3702.10, Labor Code. Reference: Sections 59, 3700, 3702.5 and 3702.10, Labor Code.

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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 with 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

(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.

(3) The qualified actuary or his/her employing actuarial firm shall maintain a minimum of \$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 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.

(h) 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.

(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 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.

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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) Sixty percent (60%) of the one (1) year average incurred liability calculated by averaging the prior three (3) years' incurred liability; or
- (2) The statutory minimum required by Labor Code Section 3701(c); or
- (3) A higher amount approved by the Director.

(e) 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.

(f) 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.

(g) 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 (g) 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 (g)(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.

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§ 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 and Actuarial Study and Summary.
- (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 Division of Workers' Compensation Audit Unit 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 Guaranty of Workers' Compensation Liabilities 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 a 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.

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§ 15210.2. Deposit Adjustment Upon Revocation of Certificate to Self-Insure.

(a) As part of the revocation of a Certificate to Self-Insure pursuant to Sections 15422 and 15423 of these regulations, the Chief shall determine the need for a special revocation audit of the claims of any individual private self-insurer and the need for a deposit adjustment to secure future liabilities of the revoked private self-insurer pursuant to Labor Code Section 3701 and/or Section 3701.8.

(b) The amount of deposit required by the Chief on a revocation of a private self-insurer's certificate to self-insure may be at an amount above the minimum required by Labor Code Section 3701 and/or Section 3701.8. The Chief in his/her discretion shall adjust the amount of deposit down to secure the remaining workers' compensation liabilities for a revoked self-insurer as necessary over time as the liabilities of the remaining claims inventory are run off by the administrator.

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, 3702.6, 3702.8, 3740-3745, Labor Code.

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§ 15211.1. Appeals to Increase in Security Deposit Due to Impaired Financial Condition of Self-Insurer.

(a) Where the Chief has required an increase in security deposit due to the impaired financial status of an individual private self-insurer and the self-insurer wishes to appeal the Chief's decision, upon receipt of the written appeal, the Chief shall order a detailed, third-party financial evaluation of the self-insurer in order to determine the employer's financial strength. The cost of the third party financial evaluation report shall be paid by the self-insurer.

(b) Upon receipt of the evaluation report, the appeal will be considered by the Chief, and if not resolved between the Chief and the self-insurer, addressed pursuant to Article 11 of these regulations and Labor Code Section 3701.5(g).

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

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§ 15211.2. Guaranty of Workers' Compensation Liabilities.

(a) At the discretion of the Chief, the Workers' Compensation liabilities of a public, a private individual, subsidiary, or affiliate self-insurer may be assumed and guaranteed in whole or part by any other legal entity or person.

(b) The Guaranty of Workers' Compensation Liabilities shall be written upon a form provided by the Chief (Form A-4 (1-2016)). The form is contained in Plate D of the Appendix following Section 15463 of these regulations and is available on the website of the Office of Self-Insurance Plans at <http://dir.ca.gov/osip/>.

(c) Regardless of whether an individual private affiliate or subsidiary or the self-insurer's parent company's financial condition is relied upon to qualify the subsidiary or affiliate for self-insurance, the holding company, ultimate parent corporation, controlling partners, owner, or other controlling entity acceptable to the Chief shall execute a Guaranty of Workers' Compensation Liabilities on behalf of the affiliate or subsidiary. In the event that the holding company, ultimate parent corporation, controlling partners, owner, or other controlling entity declines to execute a Guaranty of Workers' Compensation Liabilities, the Chief may require an increase in the self-insurer's security deposit requirement pursuant to Section 15203.1 of these regulations.

(d) A corporate guarantor shall provide a Board of Directors resolution which authorizes the Guaranty of Workers' Compensation Liabilities of the affiliated or subsidiary company or public agency. The board resolution shall grant signature authority to the person or position title of the person signing the Guaranty of Workers' Compensation Liabilities.

Note 1: The assumption resolution may be worded in such a manner as to be applicable to only the specific applicants to self-insure or the assumption resolution may list all present subsidiaries or affiliates and authorize the addition of future, unnamed additions to the assumption resolution as an attachment without execution of a new resolution.

Note 2: The Chief shall provide an acceptable model resolution to any party upon request. The current model assumption resolutions are contained in Plate E of the Appendix following Section 15463 of these regulations.

(e) In the event that a public self-insurer or individual private self-insurer reincorporates, merges, or changes its identity, the surviving entity shall execute a new Guaranty of Workers' Compensation Liabilities and a new assumption resolution to cover the liabilities of the prior

self-insurer as part of the reapplication process to continue self-insurance of workers' compensation liabilities.

(f) A foreign entity (i.e. outside the United States) may execute a parental Guaranty of Workers' Compensation_Liabilities for a subsidiary or affiliate self-insurer provided such foreign entity:

(1) executes in the English language the Guaranty of Workers' Compensation_Liabilities and the assumption resolution; and

(2) includes a statement in the Guaranty of Workers' Compensation_Liabilities that, in the event of the Director's need to enforce the Guaranty of Workers' Compensation Liabilities executed by the foreign entity on behalf of a self-insured subsidiary or subsidiaries, the foreign entity will:

(A) become subject to the jurisdiction of California courts and administrative agencies; and

(B) become controlled by California law in the resolution of any dispute under the assumption and guarantee agreement.

(g) Execution of Guaranty of Workers' Compensation Liabilities shall not reduce the amount of security deposit required to be posted by any self-insurer as set forth in Sections 15210 and 15210.1.

(h) A Guaranty of Workers' Compensation Liabilities executed pursuant to this section may be terminated only upon the express written consent of both the Director and the Security Fund. Termination shall be effective upon the Guarantor's receipt of such express written consent. Termination shall not extinguish the Guarantor's continuing liability for any default of the guaranteed self-insurer in fully discharging all existing and potential Workers' Compensation liability on account of any injury suffered by any of the guaranteed self-insurer's employees prior to the date of termination.

Note: Authority cited: Sections 54, 55 and 3702.10, Labor Code. Reference: Sections 59, 129, 3700, 3701, 3701.5, 3702, 3702.5, 3702.6, 3702.10, 3703, 3705 and 3740-3744, Labor Code.

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§ 15216. Administration of Defaulted Self-Insurer's Claims.

(a) In the event the self-insurer fails to pay workers' compensation benefits due, the cost of administration and legal expenses of existing and new claims shall be made from the security deposit set aside for this purpose pursuant to Labor Code Section 3701.5.

(b) If claims have been administered from out of state, the Director may order all remaining and future claims to be administered from California or may turn them over to the Self-Insurer's Security Fund.

(c) If it is necessary for the Director to call or cash any security deposit, a trust shall be established by the Chief to receive the funds from the deposit, except in the following situations:

(1) Where the surety company elects, and the Director approves, handling of the claims directly by the provider of the surety bond; or

(2) Where the funds and responsibility for the claims are turned over to the Self-Insurer's Security Fund pursuant to Labor Code Section 3701.5, at which time the self-insurer, or its estate, forfeits all right, title and interest in the security deposit.

(d) In the event of a default, all security deposits, regardless of form that is posted by the self-insured employer, shall be the first in order to be called upon to pay benefits due. If any portion of the defaulting self-insurer's liabilities are secured in whole or part by an alternative composite deposit posted by the Security Fund, the alternative composite deposit shall be next in order to be called upon to pay benefits due. The Director may at his/her discretion call any portion of the entire security deposit posted at any time without waiting for the exhaustion of all funds in the prior level or call order contained in this subsection.

(e) The Chief shall advise the Self-Insurers' Security Fund of the receipt of any verified information indicating a self-insurer's failure to pay benefits due, the filing of bankruptcy, or inability to post and maintain required security deposit.

(f) The Director, at his/her discretion, may order the Security Fund to assume full liability for any self-insurer's insolvency or failure to pay benefits regardless of whether or not there is a shortfall in the deposit to pay benefits due.

(g) When responsibility for claims is turned over to the Self-Insurers' Security Fund pursuant to Labor Code section 3701.5, the Self-Insurers' Security Fund shall not be liable for the payment

of penalties assessed for any act or omission on the part of any person or entity other than the Self-Insurers' Security Fund.

Note: Authority cited: Sections 54, 55, 3701.8 and 3702.10, Labor Code. Reference: Sections 59, 129, 3701, 3701.5, 3701.8, 3702, 3702.3, 3702.6, 3703, 3705 and 3740-3745, Labor Code.

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Article 3.1. Alternative Composite Deposits

§ 15220. Participation in Alternative Composite Deposits.

(a) All private self-insured employers, active or revoked, shall be annually determined by the Chief to be either eligible or non-eligible for participation in the alternative composite deposit program. Participation shall be as a fully participating self-insured employer or as a partially participating self-insured employer as provided in subsection (c)(1).

(b) All non-eligible self-insurers shall be deemed “excluded”. The following self-insured employers shall be excluded from the alternative composite deposit program:

(1) Any former private self-insured employer that possesses a revoked Certificate of Consent to Self-Insure and is no longer required to submit a Self-Insurer's Annual Report pursuant to Section 15251 of this subchapter 2 because all known claims costs have been reported and all known claims are closed.

(2) Any current or former private self-insured employer to the extent it has sold off all or any portion of its workers' compensation liabilities under a special excess workers compensation insurance policy to an admitted carrier and has continued to post security deposit to secure such sold off liabilities for 3 years from the policy issuance date.

(3) All private group self-insurers of workers' compensation liabilities as provided for in Article 13 of this subchapter 2.

(4) Any private self-insured employer to the extent that it transfers any or all of its existing self-insured workers' compensation liabilities to either: (A) a fully insured employer, such as in the merger, reorganization, sale or spin off of a division or subsidiary; or, (B) a carrier through a contractual sell off that is not a special excess workers' compensation insurance policy pursuant to Labor Code Section 3702.8(c) and (d).

(5) Any current or former private self-insured employer that has defaulted on the payment of its self-insured workers' compensation liabilities and whose liabilities have been turned over to the Security Fund by the Director.

(6) Any current or former private self-insured employer that has failed to post the full amount of security deposit required by Section 15210 for more than 60 consecutive days.

(7) Any former private self-insured employer that has posted a surety bond that contains no provision to release the carrier's liabilities under the surety bond.

(8) Any private self-insured employer that does not meet the minimum credit rating criteria for participation in the alternative composite deposit contained in subsection (d)(2).

(9) Any current or former private legally self-insured employer that is a member of a public sector healthcare joint powers authority pursuant to Government Code Section 6527.

(10) Any self-insured employer that has been specifically excluded by written request of the Security Fund. Notwithstanding other requirements of this section, the Security Fund may submit a written request to the Chief that any private self-insured employer otherwise excluded from participation in the alternative composite deposit program be included, and the Chief, upon such written request, may grant the request; the written request shall identify the private self-insured employer and shall state the reasons that such private self-insured employer should be included in the alternative composite deposit.

(c) All private self-insured employers determined by the Chief to be eligible shall be required to participate in the alternative composite deposit program.

(1) The Chief shall identify each eligible participant as one of the following:

(A) Fully participating employer, or

(B) Partially participating employer.

(d) To qualify as a fully participating private self-insured employer, the employer shall meet all the following requirements:

(1) The employer is not excluded by subsection (b) of this regulation;

(2) The employer possesses an acceptable credit rating on the date of the Security Fund's written alternative composite deposit proposal. An acceptable credit rating shall be any "A" or any "B" rating published by Moody's Investor Service, Standard & Poor's, Fitch Ratings, or equivalent.

In the event of multiple ratings for the same self-insured employer, the most recently published rating shall be utilized.

(e) The following self-insured employers shall qualify as partially participating members of the alternative composite deposit program:

(1) The employer is not excluded by subsection (b) of this regulation;

(2) The employer meets the qualifications of subsection (d) but has been identified as a partially participating self-insured employer by action of the Chief for cause. Cause may include, but is not limited to, failure to provide a parental Guaranty of Workers' Compensation Liabilities; failure to file a complete and timely Self-Insurer's Annual Report; failure to file a complete and timely Actuarial Study and Summary; upon written request by the Self-Insurers Security Fund to make an employer partially instead of fully participating; failure to post the required security deposit by the required date; failure to report all claim liabilities or to estimate claims liabilities pursuant to Section 15300 of these regulations as determined in a routine audit or special audit; and/or, failure to post alternate deposit for new subsidiaries or affiliates of the self-insurer after the end of the cycle for the previous year's alternate composite deposit.

(f) Excluded self-insured employers shall not be eligible for any portion of their security deposit to be covered by the alternative composite deposit. The excluded private self-insurer shall continue to secure its workers' compensation liabilities as required in Article 3 and to pay assessments as provided in Article 4 of this subchapter 2.

(g) Any private self-insured employer that is eligible only as a partially participating member or is excluded to participate in the alternative composite deposit shall post the balance of the amount of required security deposit with the Director pursuant to Labor Code Section 3701 and Article 3 of this subchapter 2.

(h) For cause, the Chief may downgrade an eligible private self-insured employer from:

(1) fully participating employer to partially participating employer as provided in subsection (e)(2); or

(2) from partially participating employer to excluded.

Cause may include, but is not limited to, failure to submit the Self-Insurers' Annual Report and/or failure to estimate future claim liabilities on the Self-Insurers' Annual Report fully pursuant to Section 15300 as determined in an audit; failure to file a complete and timely Actuarial Study and Summary; upon written request by the Self-Insurers Security Fund to downgrade an employer's status; inclusion of claim liabilities of subsidiaries or affiliates in their self-insurance program that have not been granted a Certificate to Self-Insure by the Director; failure to post a security deposit pursuant to Labor Code Section 3701 and these regulations; failure to meet the financial requirements for self-insurance pursuant to Section 15203.1; failure to submit a Guaranty of Workers' Compensation Liabilities pursuant to Section 15203.1; and/or, failure to pay any assessments, fees, and/or penalties pursuant to Labor Code Section 3702.9, this article, and/or Articles 4 or 9 of this subchapter 2.

Note: Authority cited: Sections 3701, 3701.8 and 3702.10, Labor Code. Reference: Sections 3701 and 3701.8, Labor Code; and Section 6527, Government Code.

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Article 3.1. Alternative Composite Deposits

§ 15220.2. Listing of Security Deposit Amount Required.

(a) The Chief shall annually prepare a listing of the security deposit amount required to secure workers' compensation liabilities for each private self-insured employer pursuant to Labor Code Section 3701 and Article 3 of this subchapter 2. This listing of required security deposits shall be calculated pursuant to Sections 15210 and 15496 and/or other deposit adjustments as determined by the Chief for all private self-insured employers. This list shall be submitted to the Director annually.

(b) Any private self-insured employer that fails to file its required Self-Insurer's Annual Report and Actuarial Study and Summary by May 1 of each year shall be deemed by the Chief to have twice the liabilities indicated on the prior year's Actuarial Summary for the purpose of determining and recording the required security deposit in the above listing.

(c) The Chief shall provide the listing of required security deposits to the Security Fund by May 15 each year.

Note: Authority cited: Section 3701.8 and 3701.10, Labor Code. Reference: Sections 3701.8 and 3702.10, Labor Code.

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Article 4. Assessments

§ 15230. Private Sector License Fee Assessment.

(a) After July 1, 2001, an annual license fee shall be assessed by the Chief against each private self-insurer and paid by each private self-insurer on the following basis:

Number of Employees	Single Adjusting
	Location*
0-2999	\$4000
3000-6999	\$6000
7000 and over	\$8000

* An additional \$300 per adjusting location for every location over 1.

The fees shall apply against the last full year Self-Insurer's Annual Report submitted. If two or more annual reports are prepared from separate records at the same address, they shall be counted as separate adjusting locations.

(b) If the above table fails to produce sufficient funds to meet the total anticipated costs for the administration of the self-insurance program by the Director, an additional charge per employee covered by each self-insurance plan shall be made to cover these costs.

(c) The Chief shall invoice each private self-insurer on or before December 1 of each year an assessment for the total cost of administration of the private Self-Insurance Plans program for the current fiscal year. Payment is due thirty (30) days after the date of the invoice.

(d) Each private self-insured certificate holder whose certificate is revoked after June 30, 2001 shall pay the full license fee assessment for the next five full calendar years after the date of revocation order or until it is no longer required to post a security deposit.

Note: Authority cited: Sections 54, 55, 3702.5 and 3702.10, Labor Code. Reference: Sections 59, 3700, 3702.5 and 3702.10, Labor Code.

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Article 5. Self-Insurer's Annual Report

§ 15251. Self-Insurer's Annual Report.

(a) Each self-insurer shall file a Self-Insurer's Annual Report every year as required by subsections (b) through (g) of this section and shall continue to file a Self-Insurer's Annual Report annually after revocation of the Certificate of Consent to Self-Insure until a final Self-Insurer's Annual Report has been filed showing all claims have been closed and there are no remaining claims with the expectation of future liabilities. Each year no later than sixty (60) days before the deadline for filing the Self-Insurer's Annual Report pursuant to subsection (b) or subsection (c) of this section, whichever applies, the Chief shall post the Annual Report form, along with instructions for completing the form and showing the years to be reported, on the website of the Office of Self-Insurance Plans at <http://www.dir.ca.gov/osip>. Each self-insurer shall file a Self-Insurer's Annual Report via an on-line platform provided by OSIP as follows:

- (1) Form AR-1 (1-2016) for individual private and private group self-insurers;
- (2) Form AR-2 (1-2016) for all public self-insurers, including those that are members of a Joint Powers Authority;

(b) For private self-insurers, individual or with a group, the report shall be filed on or before March 1 of each year and shall include the following information:

- (1) General Information.
 - (A) Certificate to Self-Insure number, status of certificate, and period of report.
 - (B) Name and address of master certificate holder, state of incorporation, federal tax identification number, and first three (3) digits of North American Industry Classification System (NAICS).
 - (C) List of all subsidiaries or affiliate companies that are covered by the master certificate to self-insure, their state of incorporation, and their subsidiary/affiliate certificate number.
 - (D) Notification of any reincorporation, merger, change in name or identity or any additions to the self-insurance program by the master certificate holder or any subsidiary/affiliate company during the reporting period.
 - (E) Name and address of person to whom all correspondence related to self-insurance should be addressed.

(F) Employment and wages paid in that calendar year as reported to Employment Development Department on the employer's Form DE-9 Quarterly Report or other similar Employment Development form used to report employment and wages in that calendar year.

EXCEPTION: A Certificate to Self-Insure that is revoked for three full years is not required to submit this employment and wage information.

(2) Claims Liability and Administrator Information.

A Liabilities by Reporting Location report shall be submitted by each claims administrator administering claims for the said self-insurer and shall include:

(A) All claims reported on or before December 31 of each of the five (5) prior calendar years (January 1 through December 31), showing indemnity and medical payments grouped as incurred liability, paid to date and future liability.

(B) All open claims reported prior to the five (5) years shall also be reported as in subsection (b)(2)(A), but in a single line entry;

(C) For the reporting year of the annual report the total of indemnity and medical future liability, the total estimated future liability of claims, the total benefits paid, number of medical only cases reported, number of indemnity cases reported; number of fatality cases, number of claims for which the employer or administrator was notified of representation by an attorney or legal representative in the reporting year, and number of new applications for adjudication received for any claims that year.

(D) Total number of open indemnity cases in all years.

(E) Name, address and Certificate to Administer number of the self-insurer's claims administrator.

(F) Notification of any change in administrator during the period covered by the report and, if applicable, the name and address of the prior administrator.

(G) A certification by the qualified claims administrator that the report is true, correct and complete with respect to the workers' compensation liabilities incurred and paid, signed and dated with the name and address of the said administrator completing the Liabilities by Reporting Location page.

(3) Location of Claims Records Information. The name and address of any location other than the current administrator where self-insurance claims records are stored.

(4) Insurance Information. Name and policy number of any standard workers' compensation insurance policy, specific excess workers' compensation insurance policy, or aggregate worker's compensation insurance policy held by the self-insurer along with policy issue date and retention levels of liability of the policies.

(5) Open Indemnity Claims Information. A list of all open indemnity claims by reporting location by year, and alphabetically within each year. The list shall:

(A) Show the name of each claimant, date of injury, description of injury, amount of benefits paid-to-date in indemnity and medical payments and estimated future liability of claim for indemnity and medical benefits.

Note: Computer Loss Runs showing the information requested and organized as set forth in this subsection will be acceptable in lieu of the List of Open Indemnity Claims.

(B) Show any open claim reported to the carrier of a specific excess insurance policy, and for which the carrier has not denied in writing the claim liability in whole or part above the retention level of the policy. The list shall include the name of the claimant, claim number, date of injury, description of injury, carrier name and policy number, policy coverage period, retention level of policy and paid to date in indemnity or medical benefits, and the estimated future liability of the claim minus the total unpaid employer retention, which equals the total unpaid carrier liability. The list shall also indicate whether the claim has been reported to a carrier, if the claim has been accepted by the carrier, if the carrier has denied any part of the liability of the claim.

(6) Specific Excess Coverage Calculation. A calculation which includes a total of all unpaid carrier liability.

(7) Company Officer Certification Information. The name, title, address, phone number and signature of the company officer authorized to certify that the report is true, correct and complete and acknowledging the company's responsibility to post and maintain the required security deposit that is due as a result of this report.

(c) For all public self-insurers, whether or not a member of a joint powers authority, the report shall be filed by October 1 of each year to cover liabilities during the July 1-June 30 fiscal year and shall include:

(1) General Information.

(A) Name and address of master certificate holder (individual agency or joint powers authority as applicable), federal tax identification number, and type of public agency.

(B) Agency name and certificate numbers of all of the joint powers authority's members.

(C) A certification by the individual public agency or joint powers authority official that the report is true, correct and complete.

(D) Notification of any reincorporation, merger, change in name or identity or any additions to the self-insurance program by the master certificate holder or any subsidiary/affiliate company during the reporting period, and identification of any employees not included in the self-insurance program.

(E) Name and address of person to whom all correspondence related to self-insurance should be addressed.

(F) Employment and wages paid in that fiscal year as reported to Employment Development Department on the employer's Form DE-9 Quarterly Report or other similar Employment Development form used to report employment and wages in that fiscal year.

EXCEPTION: A public employer whose Certificate of Consent to Self-Insure has been revoked is not required to submit employment and wage information.

(2) Liability Report and Administrator Information.

A Liabilities Report which shall include:

(A) All claims reported shall be on a fiscal year basis (starting July 1 and ending June 30 of the reporting years), with all claims reported on or before June 30 of each of the five prior fiscal years, showing indemnity and medical payments grouped as incurred liability, paid to date and future liability.

(B) All open claims reported prior to the five years shall also be reported as required in (b)(2)(A), but in a single line entry.

(C) Each Joint Powers Authorities (JPA) shall report the consolidated liabilities of all members of the JPA on one Liabilities Report.

(D) A Liabilities by Reporting Location Report shall be completed in full for each claims adjusting location in addition to the consolidated report totaling liabilities from all locations.

(E) For any Joint Powers Authority, one list of all open indemnity claims may be consolidated into a single listing for the entire JPA, as long as the individual JPA member is identified for each claim.

(3) Claims Information for each year shall meet the requirements of subsection (b), except that no deposit calculation page shall be submitted as required for private self-insurers pursuant to subsection (b)(7).

(d) The Chief may, for good cause, require any self-insurer to submit a Self-Insurer's Annual Report covering a six-month interim period, in addition to the annual report specified in subsection (b) and (c) of this section.

(1) For private self-insurers, such interim reports, when required, shall cover the period starting January 1 and ending June 30 of each year and shall be due on September 1 of each year.

(2) Public self-insurer's interim reports shall cover July 1 through December 31 and shall be due on March 1 of each year.

(e) The Chief shall assess the civil penalty set forth in Labor Code Section 3702.9(a) against any self-insurer for failure to file a complete and timely Self-Insurer's Annual Report. Continued failure to file an Annual Report sixty (60) days after assessment of civil penalties pursuant to Section 3702.9(a) shall be good cause for revocation of a certificate to self-insure.

(f) For good cause shown by the self-insurer or its administrative agency, the Chief may grant additional time to a self-insurer to file the report without penalty.

(g) Unless otherwise approved by the Chief, the consolidated liabilities report and reporting location reports (page 3 of the annual report) shall be signed by a competent person, as demonstrated pursuant to Section 15452(b) of these regulations, in the employment of the self-insurer or administrative agency for the self-insurance plan.

(h) The employer's certification on the Self-Insurer's report shall be signed by:

(1) an officer or employee of the self-insurer authorized to sign documents for self-insurance matters; or

(2) an authorized public self-insurer officer or employee; or

(3) an authorized officer or employee of the joint powers authority to which the public agency is a member; or

(4) an authorized officer or employee of the Self-Insurer's Security Fund where the Director has turned over responsibility for an insolvent private self-insurer's claim liability to the Fund pursuant to Labor Code Section 3701.5(c).

Note: Authority cited: Sections 54, 55 and 3702.10, Labor Code. Reference: Sections 59, 129, 3700, 3701.5, 3702.2, 3702.3, 3702.9 and 3702.10, Labor Code; and Sections 1063.1 and 1063.3, Insurance Code.

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Article 7. Injury and Illness Prevention Program

§ 15353. Injury and Illness Prevention Program.

(a) As part of the application process, an individual private sector applicant for a Certificate to Self-Insure shall certify they have implemented an effective Injury Illness Prevention Program as required by Labor Code section 6401.7 and provide the name, title and contact information for the person within their organization responsible for workplace safety.

Note: The pamphlet “A sample of an Injury and Illness Prevention Program” can be obtained from the Cal/OSHA Consultation Services.

Note: Authority cited: Sections 54, 55 and 3702.10, Labor Code. Reference: Sections 59, 3700, 3702, 3702.10, 6314.5, 6319 and 6401.7, Labor Code.

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Article 9. Recordkeeping and Audits

§ 15405. Confidentiality.

(a) Financial information submitted to the Director or Chief to establish the solvency and worth of any self-insurer, applicant to be self-insured, third party administrator, or of a guarantor of a self-insurer or applicant to be self-insured shall be considered confidential in accordance with California Government Code Sections 6254 and 6255, and California Labor Code Section 3701.8(b)(5). Except as otherwise provided by law, such information shall not be disclosed to any other entity or person without an order from an appropriate court or administrative subpoena from an agency of the State, with the following exceptions:

(1) The Chief shall disclose any financial information to the Self-Insurers' Security Fund on any private self-insurer whose liabilities have been turned over to the Fund pursuant to Labor Code Section 3701.5, or that has filed bankruptcy, failed to pay its liabilities, or failed to post an increase in deposit due that would potentially put the Fund at risk for the self-insurer's liabilities.

(2) Pursuant to Labor Code Section 3701.8(b)(5) and Section 15220.1(d) of these regulations, the Chief may provide to the Self-Insurers' Security Fund any financial information for any self-insurer needed to determine and set deposit assessments for self-insured employers.

(3) Notwithstanding this section, the Board of Trustees of any private group self-insurer currently or previously self-insured pursuant to Labor Code Section 3700(b) and sections 15470 through 15500 of these regulations shall upon written request provide a copy of the group's most recent certified, independently audited financial statement to any affiliate employer of the group. The Chief also may provide to the Self-Insurers' Security Fund financial information, including actuarial reports, of any group self-insurer, so that the Security Fund may determine the financial risk and stability of the group.

(b) Self-Insurers' Annual Reports filed with the Office of Self-Insurance Plans pursuant to Labor Code Section 3702.2 and Section 15251 of these regulations shall be considered confidential in accordance with Government Code Sections 6254 and 6255 and Labor Code Section 3701.8(b)(5). Except as otherwise provided by law, information from the annual reports showing the extent of liabilities of self-insured employers shall not be disclosed to any other entity or person without an order from an appropriate court or administrative subpoena from an agency of the State, with the following exceptions:

(1) The Chief shall provide copies of any Self-Insurer's Annual Reports and/or lists of open indemnity claims to the Self-Insurers' Security Fund for any private or group self-

insurer whose liabilities have been turned over to the Fund pursuant to Labor Code Section 3701.5 or that has filed bankruptcy, failed to pay its liabilities, or failed to post an increase in deposit due that would potentially put the Fund at risk for the self-insurer's liabilities.

(2) Pursuant to Labor Code Section 3701.8(b)(5) and Section 15220.1(d) of these regulations, the Chief may provide to the Self-Insurers' Security Fund copies of any and all Self-Insurer's Annual Reports needed to determine and set deposit assessments for self-insured employers, except that lists of open indemnity claims shall not be provided to the Security Fund for the sole purpose of setting deposit assessments.

(3) For public self-insured employers and/or Joint Powers Authorities only, copies of and/or data from Self-Insurers' Annual Reports may be provided to parties pursuant to Labor Code Section 3702.2(c) and Government Code Section 6253 upon written request to the Chief, except that no information identifying injured workers or dependents or related to specific claims may be provided.

(c) Except as otherwise provided by law, information obtained from any audit regarding the nature, extent or financial liability of any self-insurer's workers' compensation claims, together with any and all specific information regarding any claims, shall not be disclosed to any other entity or person without an order from an appropriate court or administrative subpoena from an agency of the State, with the following exceptions:

(1) The Chief may provide copies of audit reports to the Self-Insurers' Security Fund for any private self-insurer whose liabilities have been turned over to the Fund pursuant to Labor Code Section 3742, et seq. or that has filed bankruptcy, failed to pay its liabilities, or failed to post an increase in deposit due that would potentially put the Fund at risk for the self-insurer's liabilities.

(2) The Chief may provide copies of any audit reports and/or Self-Insurer's Annual Reports to the Division of Workers' Compensation in conjunction with any requests for audit and/or investigation by the Division of Workers' Compensation or Office of Self-Insurance Plans.

(d) Except as otherwise provided by law, information obtained from actuarial reports shall not be disclosed to any other entity or person without an order from an appropriate court or administrative subpoena from an agency of the State, with the following exception: the Chief may provide copies of actuarial reports to the Self-Insurers' Security Fund.

Note: Authority cited: Sections 54, 55, 3701.8(b)(5), 3702.2 and 3702.10, Labor Code; and Sections 6253, 6254 and 6255, Government Code. Reference: Sections 59, 129, 3700, 3701.5, 3702.2, 3702.6, 3702.10, 3740, 3741, 3742, 3743, 3744, 3745 and 3746, Labor Code; and Sections 6253, 6254 and 6255, Government Code.

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§ 15422. Voluntary Revocation.

Any self-insurer or administrative agency may voluntarily request that its Certificate to Self-Insure or Certificate to Administer be revoked at any time by informing the Chief in writing. The Director shall revoke the Certificate to Self-Insure or Certificate to Administer after the self-insurer or administrative agency has shown to the satisfaction of the Director that the self-insurer or administrative agency has established a program to discharge all liabilities and all responsibilities incurred by the self-insurer or administrator during the period the Certificate to Self-Insure or Certificate to Administer was in force.

Note: Authority Cited: Sections 54, 55 and 3702.10, Labor Code. Reference: Sections 54, 55, 59, 129, 3700, 3701, 3701.5, 3702, 3702.3, 3702.5, 3702.6, 3703, 3705, 3740-3745, Labor Code.

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§ 15426. Release of Security Deposit.

(a) Upon any revocation of a private employer's certificate to self-insure, a new deposit level shall be determined by the Chief to be sufficient to secure all actual and potential liabilities. The former self-insurer shall continue to be responsible to increase the deposit at the written request of the Chief as required in Section 15210 of these regulations.

(b) Except as provided in Labor Code Section 3702.8(c), the deposit shall not be reduced below the required amount pursuant to Labor Code Section 3701.

(c) Upon issuance of an order of default pursuant to Labor Code section 3701.5, the self-insurer, or its estate, shall forfeit all right, title and interest in its security deposit and shall have no right to return of all or any portion of the security deposit from the Self-Insurers' Security Fund.

Note: Authority Cited: Sections 54, 55 and 3702.10, Labor Code. Reference: Sections 54, 55, 59, 129, 3700, 3701, 3701.5, 3702, 3702.3, 3702.6, 3702.10, 3703, 3705, 3740-3745, Labor Code.

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Article 11. Hearing and Appeal Procedures

§ 15431.1. Appeals and/or Requests for Hearings.

(a) Appeals and/or requests for hearing under this article, by an employer or aggrieved party, shall be in writing and shall include the following information:

(1) Name and address of the person making the appeal or requesting the hearing (i.e. the requesting party);

(2) The specific nature of the request (for example, “This request is to review action denying revoking a certificate to administer”; or “This request is to appeal the failure to pass the self-insurance administrator's examination”);

(3) A statement of the requesting party's rationale, basis, evidence, facts, reasoning, arguments, documentation, or other supporting material which establishes and supports the position of the requesting party;

(4) A statement of whether the requesting party wishes a formal hearing or a written decision only on the matter; and

(5) When a formal hearing is requested, an additional statement estimating the number of witnesses, if any, to be called by the requesting party at the hearing and the amount of time the requesting party will require to present its case at the hearing.

(b) Requests for a hearing or appeal pursuant to Section 15430 of these regulations shall be mailed or delivered to: Chief, Self-Insurance Plans, 11050 Olson Drive, Suite 230, Rancho Cordova, CA 95670.

(c) An appeal or request for a hearing from an employer or aggrieved party must be served upon the Director in writing within twenty-one (21) calendar days after receipt of:

(1) Notice of intention to revoke or deny a certificate to self-insure;

(2) Notice of the default of a self-insured employer or surety;

(3) Notice of a failing score on the self-insurance administrator's examination;

(4) Notice of intent to revoke a certificate to administer; or

(5) The decision by the Chief not to renew or grant a certificate to administer.

(d) A hearing on a claim that Self-Insurance Plans has not timely processed an application as required by Government Code section 15378 may be requested at any time.

(e) An appeal or request for hearing shall be deemed timely received if the request is postmarked or delivered to the Director or the Chief by the end of business on the twenty second (22nd) calendar day, after receipt of the notice or decision being appealed, as set forth in subsection (c) of this section.

(f) The written appeal or hearing request shall be:

(1) Placed in the United States mail in a fully prepaid, postmarked and sealed envelope;

(2) Delivery to an overnight mail delivery service for delivery the following day; or

(3) Delivery by messenger or in person to the Office of Self-Insurance Plans.

Note: Authority cited: Sections 54, 55 and 3702.10, Labor Code. Reference: Sections 59, 3700, 3701, 3701.5, 3702, 3702.1, 3702.7, 3702.9, 3702.10 and 3740-3747, Labor Code; Sections 11181-11188 and 15378, Government Code.

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§ 15471. Initial Feasibility Study.

Included with each group self-insurer's initial application for a Certificate To Self-Insure required by Section 15482 of these regulations shall be a feasibility study report prepared by the prospective Group Administrator or an independent risk management individual or firm, consisting of the following:

- (a) An analysis of the advantages and disadvantages of group self-insurance for the proposed group members as compared to the options of individual self-insurance or coverage under a policy issued by a carrier(s);
- (b) Identification of all of the initial proposed group members and the combined total payroll for the proposed group self-insurer;
- (c) A consolidated summary of the historical workers' compensation claims loss experience and the allocated loss expenses of the proposed group members for a minimum of the three most recent, full policy years, as well as the current policy year through the last completed quarter under the current policy at the time the application is submitted;
- (d) A five (5) year pro forma financial statement including, but not limited to, an income statement, balance sheet, projected cash flows, and claims payout projections. The pro forma financial statement must include a detailed separation of assets, liabilities, retained earnings, taxes, and accrual and distribution of excess contributions. If any claims costs are discounted, the interest rate assumptions and payout patterns must be described and must be based on reasonable assumptions.
- (e) A summary of the specific details of the group self-insurer's operating plan or the plan itself, including, but not limited to, descriptions of:
 - (1) The group self-insurer's legal and organizational structure;
 - (2) Method of governance;
 - (3) General management of the group self-insurer, including underwriting policies, insurance coverage, billing, commissions, fees, and all other expenses.
 - (4) Rating or contribution plans, or other means by which group funding during the first five years of operation will be generated and the amounts to be generated by the methods proposed for each of the first 5 years of operation.

- (f) The first 12 month budget of the group self-insurer;
- (g) The names and credit ratings of any anticipated excess insurance coverage carriers, including estimated cost, levels of retention for specific excess insurance, aggregate excess insurance if obtained, and maximum liability levels of each excess policy;
- (h) The company name and name of the person designated as the independent Group Administrator and the company name of the independent third party claims administrator chosen by the Board of Trustees;
- (i) A description of safety and loss control services available from the group self-insurer to group members;
- (j) A description of the underwriting requirements for member selection for the group self-insurer, including a description of any underwriting requirements or restrictions imposed by the specific excess insurance carrier;
- (k) The name of the certified public accountant that will prepare annual financial reports for the group self-insurer;
- (l) The name and professional actuarial designation of the actuary who will prepare actuarial reports for the group self-insurer, as well as an indication of how frequently actuarial reports will be completed;
- (m) A statement indicating the means by which the group self-insurer will post the required security deposit; and
- (n) A statement describing any fidelity insurance coverage and errors and omissions insurance coverage to be maintained by the group self-insurer, and/or by vendors with the group self-insurer named as beneficiary.

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

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§ 15472. Minimum Financial Requirements for a Group Self-Insurer.

(a) In addition to other requirements specified in this Article 13, no private group shall continue as a group self-insurer, unless it meets the funding and solvency requirements specified in section 15484(e) as demonstrated in independently audited financial statements meeting the requirements specified in section 15484(a) and (b) of this chapter. (Exception: A group self-insurer may continue if it is operating under a corrective action plan approved by the Chief.)

Note: Authority cited: Sections 54, 55 and 3702.10, Labor Code. Reference: Sections 3700, 3701, 3701.5, 3702, 3702.2 and 3702.10, Labor Code.

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§ 15475.2. Restriction on Use of Funds.

(a) The group self-insurer, its trustees, group members, Group Administrator, claims administrator, or other agents or vendors of the group self-insurer shall not utilize funds collected from group members or from other parties conducting business with the group self-insurer, and/or funds earned by the group self-insurer through investments for any purpose not directly related to the payment of claims, the payment of fees related to funding the group, including the posting of a security deposit, penalties, excess insurance premiums, or for any other reasonable obligations or costs of operation of the group self-insurer as determined and authorized by the Board, including the refunding of surplus funds authorized pursuant to Section 15477.

(b) The group self-insurer shall not lend any money to any trustee, core member or affiliate member of the private group self-insurer, or to the Group Administrator, the claims administrator, and/or any other agent, vendor, or service provider. The group self-insurer shall not lend or issue any debt instruments incur other encumbrances or obligations, or extend credit to any group member for the payment of contributions or assessments. Notwithstanding this section, the group self-insurer may:

(1) permit fixed installment plans not to exceed twelve (12) months to collect contributions for the payment of current group members;

(2) permit fixed installment plans approved by the Chief for the payment of special assessments to make up a funding insufficiency pursuant to Section 15477.

(c) Funds of the private group self-insurer shall not be commingled with the funds or assets of any group member or any other group self-insurer.

(d) Once surplus funds have been declared as excess funds and transferred to an escrow account pursuant to section 15477(a)(1), such surplus funds of the private group self-insurer shall not be commingled in the checking account(s) established for the payment of and administration of current liabilities of group member claims, assessments, and other expenses of the group self-insurer's operation.

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

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§ 15475.3. Investment of Funds.

(a) Subject to the limitations set forth in Section 15475.2, the Board of Trustees of a group self-insurer may invest excess funds not immediately needed for the payment of the group insurer's liabilities in any of the following:

(1) United States Treasury Bills, Notes, and Bonds for which the full faith and credit of the United States are pledged for the payment of interest and principal.

(2) Federal agency or United States government-sponsored enterprise obligations, participations, or other instruments, including those issued by or fully guaranteed as to principal and interest by federal agencies or United States government sponsored enterprises.

(3) Certificates of Deposit that are FDIC or NCUA insured or collateralized by the issuing institution. Investments in eligible certificates of deposit, that are brokered into various FDIC and/or NCUA insured institutions, shall have a maximum maturity of no more than five (5) years, and shall not exceed fifty percent (50%) of the total portfolio as measured at the date of purchase.

(4) Money market accounts and savings accounts offered by financial institutions whose deposits are insured by a federal agency. Such deposit accounts in financial institutions shall be limited to offices or branches of the financial institutions located in the State of California. Should the amount deposited in any single account exceed the federally insured amount for any one account, the financial institution shall also meet the credit rating requirements as set forth in Section 15215(e).

(5) Bonds, notes, warrants, or other evidence of indebtedness of any local agency or State agency within the United States of America, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the State or local agency, or by the department, board, agency, or authority of the State or local agency, provided the credit worthiness of the security meets the same requirements of securities posted with the Director as security deposit in Section 15213(a)(1).

(b) In addition to investments made pursuant to subsections (a)(1) through (a)(5) of this section, but only if invested through the services of a registered investment advisor, the Board of Trustees of a private group self-insurer may invest excess funds not immediately needed for the payment of group liabilities in any of the following:

- (1) Prime Bankers' Acceptances of the 50 largest global banks.
 - (2) Commercial Paper rated A1/P1/F1 by a nationally recognized statistical rating organization. Investments in eligible commercial paper shall have a maximum maturity of 270 days or less, and shall not exceed 25% of the total portfolio as measured at the date of purchase.
 - (3) Medium-term notes, defined as all corporate and depository institution debt securities with a maximum remaining maturity of five years or less, issued by corporations organized and operating within the United States or by depository institutions licensed by the United States or any state and operating within the United States. Investments in eligible medium-term notes shall be rated "A" or better by a nationally recognized statistical rating organization, shall not exceed 30% of the total portfolio as measured at the date of purchase, and shall have a maximum remaining maturity not to exceed 10 years.
 - (4) Preferred stock issued by any solvent American institution registered as provided by the Securities and Exchange Act of 1934 (15 U.S.C. 78a-78kk); preferred stock shall not exceed 10% of the total portfolio as measured at the date of purchase.
 - (5) Bond Funds regulated by the Securities and Exchange Commission, and rated AA or better by a nationally recognized statistical rating organization.
 - (6) The maximum percentage of a self-insured group's portfolio that may be invested in equities securities is thirty percent (30%). In the event the investment in equity securities exceeds 30% of the group self-insurer's portfolio, the group shall re-balance the portfolio in order to comply with this section.
- (c) The Board of Trustees, whether through its registered investment advisor or not, shall not participate in "short selling" (a sale of a security not owned by the seller; a technique used to take advantage of an anticipated decline in price or to protect a profit), or "margin transactions" (purchase of a security on credit after a margin has been deposited).
- (d) The Board of Trustees shall not invest in any of the following assets:
- (1) Commodities or Futures Contracts;
 - (2) Investment in stock not listed on an exchange or sold to the public;
 - (3) Stock options;
 - (4) Limited partnerships.
- (e) With the exception of United States Treasury Bills, Notes and Bonds, and United States government agency or government sponsored enterprise obligations, the maximum percentage of

the group self-insurer's portfolio that may be invested in a single issuer or single mortgage-related security is 5%.

(f) The weighted average portfolio maturity may not exceed five years.

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

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§ 15476. Advanced Contribution Discounts.

The Board of Trustees of a group self-insurer using a contribution plan shall not authorize discounts to any member. Additionally, if any 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 the group self-insurer's program year[s] shall be no less than the funding required under Section 15484(e).

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

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§ 15479. Indemnity Agreement and Power of Attorney.

(a) Each member of a group self-insurer shall execute an Indemnity Agreement and Power of Attorney Form S-4 (1-2016).

(b) The Indemnity Agreement and Power of Attorney shall contain, in substance, the following provisions:

(1) An agreement under which each member of a group self-insurer agrees to assume and discharge, jointly and severally, any compensation liability under Labor Code Section 3700-3705 of any and all other employers that are parties to the group self-insurer indemnity agreement;

(2) The agreement provides that, in addition to the rights of the group self-insurer to enforce the indemnity agreement in the event of a failure of the group self-insurer to enforce such rights after reasonable notice to the group self-insurer, the Director of Industrial Relations independently shall have the right to enforce the indemnity agreement on behalf of the group self-insurer including the joint and several liability of group members for payment of all compensation liabilities under the indemnity agreement and the liability of group members for any unpaid contributions and assessments;

(3) Provisions requiring that the Board of Trustees of the group self-insurer designate and appoint a Group Administrator empowered to accept the service of process on behalf of the group members and authorized to act for and bind the group self-insurer and all group members in all transactions relating to or arising out of the operation of the group self-insurer;

(4) Provisions for the right of the Director of Industrial Relations to substitute an outside Conservator for the Group Administrator;

(5) A provision granting full power of attorney and signature authority to the Group Administrator of the group self-insurer to execute documents, enter contracts, accept service of process on behalf of the group self-insurer, and conduct the general business of the group self-insurer, and, that said signature of the Group Administrator shall bind each and every group member jointly and severally. Note: A copy of S-4 (1-2016), Indemnity Agreement and Power of Attorney is available from the Chief and is available at <http://www.dir.ca.gov/osip> and is contained in the Appendix following Article 12 of Chapter 8, Subchapter 2.

Note: Authority cited: Sections 54, 55 and 3702.10, Labor Code. Reference: Sections 3700, 3701, 3701.5, 3702, 3702.1, 3702.2, 3702.3, 3702.5, 3702.7 and 3702.10, Labor Code.

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§ 15480. Termination of Membership in a Group Self-Insurer.

(a) No member of a group self-insurer may be involuntarily canceled or terminated from group membership by the group self-insurer unless at least 45 days advance written notice has been provided to the group member and to the Chief. Notice to a broker or other third party shall not be deemed as notice to the group member.

(b) In the case of cancellation or termination of coverage of a group member, whether voluntary or involuntary, the group self-insurer shall remain liable for all compensation liabilities of the group member resulting from any claim with a date of injury during the period of membership in the group self-insurer up to the effective date of the termination and revocation of the group member's Affiliate Certificate of Consent to Self-Insure, including the 45 day notice period in the event of involuntary termination. The group member shall remain responsible for all contributions and assessments for the period of membership in the private group self-insurer, including the 45 day notice period and/or any period during which the termination and revocation of the group member's Affiliate Certificate of Consent to Self-Insure was under appeal.

(c) Notwithstanding subsection (b), the following provisions apply in the case of the cancellation or termination of membership of a member in a group self-insured group, whether voluntary or involuntary:

(1) The group self-insurer shall not incur liability for any claim of a member incurred on or after the date a member obtains coverage through a standard workers' compensation policy issued by an admitted carrier.

(2) Liabilities of a group member may be transferred pursuant to Labor Code Section 3702.8 and/or Article 8, Section 15360 of these regulations.

(d) Notice to the Chief of involuntary cancellation or termination of a group member from a group self-insurer as set forth in subsection (a) shall be good cause for revocation of the Affiliate Certificate issued to the group member on the applicable effective date of the involuntary cancellation or termination date without issuance of further notice from the Chief.

(e) Any group member leaving a group self-insurer shall provide proof of workers' compensation coverage to the Chief and to the group self-insurer within 45 days after the notice of cancellation or termination. Notice to the Chief may be provided by the group self-insurer, the Group Administrator, or the group member. However, if the group member no longer has employees in California, the group member or group self-insurer shall notify the Chief and no proof of

insurance need be provided. Unless the group member no longer has employees in California, the Chief shall notify the Labor Commissioner of any group member that voluntarily or involuntarily leaves a private group self-insurer and has failed to provide proof of coverage for workers' compensation liabilities in the form of a binder or certificate of insurance within 45 days after the notice of cancellation or termination.

(f) Any member of a group self-insurer may voluntarily withdraw from the group self-insurer at the end of a program year after obtaining alternate coverage and providing written notice to the Group Administrator of its intent to voluntarily end its participation in the group self-insurer. Notwithstanding this section, the group self-insurer's bylaws may require periods of membership longer than one year and, except as specified by Section 15473(d)(2), may specify penalties, loss of any return of surplus funds, or other sanctions for early termination of group membership.

(g) Any member of a group self-insurer that is involuntarily revoked by the group for non-payment of any member contribution or assessment must bring current all outstanding unpaid amounts in order to exercise their right to appeal the notice of intent to revoke.

Note: Authority cited: Sections 54, 55 and 3702.10, Labor Code. Reference: Sections 3700, 3701, 3701.5, 3702 and 3702.10, Labor Code.

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§ 15481. Actuarial Studies and Summaries.

(a) The group 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 a written or electronic 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 actuarial study and summary shall be prepared and submitted by an actuary meeting each of the following qualifications:

(A) The actuary must be independent with 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

(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 one million dollars (\$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.

(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) ten (10) or fewer open claims, or (B) less than one million dollars (\$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.

(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 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 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) 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) 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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§ 15482. Private Group Application.

(a) Each private group of employers desiring to procure a private group Certificate of Consent to Self-Insure as provided in Section 15470 of these regulations shall submit to the Chief a complete Application For A Certificate Of Consent To Self-Insure By A Group Of Employers for the group and a complete Application For An Affiliate Certificate Of Consent To Self-Insure As A Member Of A Group Self-Insurer for each initial member of the group no less than 30 days before the requested effective date of self-insurance. Applications shall be made on:

(1) Form S-1 (1-2016) for a private group seeking a group Certificate of Consent to Self-Insure;

(2) Form S-2B (1-2016) for each member of a group seeking an Affiliate Certificate of Consent to Self-Insure. The Application for an Affiliate Certificate of Consent to Self-Insure shall be completed as provided in Section 15482.1 of these regulations.

(b) A complete application to self-insure for a private group of employers shall be submitted with complete applications for each initial proposed members of the group and shall include the attachments requested in the application form itself, and, as applicable, the following:

(1) A duly executed Resolution by the Board of Trustees of the group applicant authorizing execution of the application to become a group self-insurer and empowering the Group Administrator and other employees, officers, or Trustees of the group self-insurer applicant to sign the application form and other necessary documents on behalf of the group self-insurer applicant;

(2) A duly executed Resolution by the Board of Trustees of the group self-insurer applicant authorizing the execution of an Agreement of Assumption and Guarantee Of Workers' Compensation Liabilities on behalf of the proposed group members and any future members of the group self-insurer granted an Affiliate Certificate;

(3) An Agreement of Assumption and Guarantee of Workers' Compensation Liabilities For Group and Affiliate Members ((Form S-5 (1-2016)) executed by the applicant group self-insurer as required in Section 15483 of these regulations;

(4) An original Certificate of Status from the California Secretary of State or other appropriate registration documents showing that the group applicant is appropriately registered to do business in California dated within 90 days of the date of receipt of the application by the Chief;

(5) A certification that the group has implemented an effective injury and illness prevention program and contact name of the person responsible for overseeing the group's safety services as specified in Section 15486.1 of these regulations;

(6) An original, duly executed Indemnity Agreement and Power of Attorney of Joint and Several Liability between the group self-insurer applicant and each proposed member pursuant to Section 15479 of these regulations.

(7) Payment of the required application fee(s) as required by Section 15491 of these regulations.

(8) A copy of the Initial Feasibility Study Report as required in Section 15471 of these regulations.

(9) A duly executed Agreement and Undertaking for Security Deposit as required by Section 15486.

Note: Authority cited: Sections 54, 55 and 3702.10, Labor Code. Reference: Sections 59, 3700, 3701, 3701.5, 3702, 3702.2, 3702.5 and 3702.10, Labor Code.

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§ 15482.1. Private Group Member Application.

(a) A complete group member application to self-insure on Form S-2B (1-2016) by each member of a group self-insurer shall include all the attachments requested in the application form itself, and, as applicable, the following:

(1) The Board of Trustees, or the Group Administrator if authorized by the group bylaws, shall evaluate potential new members by reviewing their financial statements, tax returns, credit reports, or other appropriate documentation as specified in the bylaws of the group self-insurer;

(2) A duly executed Resolution authorizing completion of the application to become self-insured as a member of the group self-insurer;

(3) A duly executed Indemnity Agreement and Power of Attorney (Form S-4 (1-2016)), as required by Section 15479 of these regulations.

(b) A separate application shall be submitted for any new or separate subsidiary or affiliate of an affiliate group self-insurer in order for it to be considered for consent to self-insure.

(c) A new application may be required whenever an existing affiliate group self-insurer reincorporates, merges, or otherwise changes ownership.

Note: Authority cited: Sections 54, 55, 59 and 3702.10, Labor Code. Reference: Sections 3700, 3700(b), 3701, 3702, 3702.5 and 6401.7(a), Labor Code.

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§ 15482.2. Interim Certificates to Group Members.

(a) The Chief may issue an Interim Certificate of Consent to Self-Insure to a new member of an existing private group self-insurer upon receipt of a qualifying Request for Interim Certificate and the filing fee as provided in Section 15491(a)(3). The Interim Certificate of Consent to Self-Insure will be issued for a period not to exceed 180 days. A Certificate of Consent to Self-Insure to replace the Interim Certificate shall not be issued unless a completed application and accompanying documents required by Section 15482.1 and the application fee required by Section 15491 are submitted to the Chief within 180 days of the effective date of the Interim Certificate.

(b) To qualify for issuance of an Interim Certificate to its group members, the existing private group self-insurer holding the Master Certificate of Consent to Self-Insure must be a group self-insurer in good standing, and shall not be prohibited from adding new members pursuant to Section 15477(b)(5).

(c) A Group Affiliate Members Interim Application (Form S-2A (1-2016)) on behalf of the new group member shall be submitted by the Group Administrator to the Chief. The request shall be in writing and shall include the following information regarding the proposed new group member:

- (1) The proposed group member's full legal name, state of incorporation, and Federal Tax Identification Number;
- (2) The requested effective date of the Interim Certificate;
- (3) The annual payroll of the proposed group member during the last 12-months;
- (4) The proposed member's three digit NAICS code or two digit SIC Code, experience modification, and a description of the type of business it conducts; and
- (5) A signed statement from the Group Administrator certifying that the proposed group member meets the homogeneity and underwriting requirements of the group self-insurer and that the group self-insurer shall be financially responsible to pay all workers' compensation claims arising out of the period of time of the Interim Certificate.

(d) Upon receipt of a written request for an Interim Certificate from a private group self-insurer that meets the requirements of this section, the Chief shall issue the Interim Certificate within 14

days. If the request is incomplete or does not comply with this section, the Group Administrator for the group self-insurer will be notified within 14 days of receipt of the request.

(e) Before an Interim Certificate may be replaced with a Certificate of Consent to Self-Insure with no expiration date, the Interim Self-Insurer must submit within 180 days of the effective date of the Interim Certificate of Consent a complete and accurate Application Form as provided in Section 15482.1.

(f) Each group member issued an Interim Certificate of Consent to Self-Insure shall subject to the following provisions:

(1) If an Interim Certificate is revoked before the expiration date or allowed to expire without issuance of a permanent Affiliate Certificate of Consent to Self-Insure pursuant to subsection (e), the Interim Certificate holder shall provide proof of workers' compensation insurance to the Chief and to the group self-insurer no later than 45 days after the date of revocation by the department. The group self-insurer shall remain liable for all compensation liabilities of the employer until the effective date of the insurance coverage, the expiration date of the Interim Certificate, or the 45th day any Notice of Intent to Revoke the Certificate issued by the Chief, whichever comes first. The employer shall remain liable for payment of contributions and assessments as required by the group self-insurer for the employer's period of coverage as a member of the group self-insurer.

(2) The Chief shall notify the Labor Commissioner if any employer granted membership in a private group self-insurer under an Interim Certificate of Consent to Self-Insure is subsequently denied an Affiliate Certificate of Consent to Self-Insure by the Chief and after 45 days from such denial has not produced proof of coverage for workers' compensation liabilities to the Chief in the form of a binder, certificate of insurance or policy.

Note: Authority cited: Sections 54, 55 and 3702.10, Labor Code. Reference: Sections 59, 3700, 3702.5 and 3702.10, Labor Code.

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§ 15483. Agreement of Assumption and Guarantee of Group Member's Liabilities.

(a) Each group self-insurer shall provide an Agreement of Assumption and Guarantee of Liabilities of Workers' Compensation Liabilities For Group Members for each group member, executed by the group self-insurer or Group Administrator on its behalf if authorized in the group self-insurer's bylaws. If the group self-insurer does not execute an Agreement of Assumption and Guarantee of Liabilities of Workers' Compensation Liabilities For Group Members for any proposed group member, the Director shall deny the application to self-insure of the proposed group member, or, if an Interim Certificate of Consent to Self-Insure has been issued to a group member and the group self-insurer declines to execute an Agreement of Assumption and Guarantee of Liabilities of Workers' Compensation Liabilities For Group Members for that group member, it shall be cause for revocation of the Affiliate Certificate of Consent to Self-Insure of the group member.

(b) In addition, each group member that is a subsidiary or affiliate or is otherwise controlled or owned by another entity shall provide an Agreement of Assumption and Guarantee of Liabilities executed by the holding company, ultimate parent company, controlling general partners, owner, or owners having controlling ownership as required for subsidiaries and affiliates of individual private self insurers by Section 15211.2 of these regulations. If the holding company, ultimate parent company, controlling general partnership, or owner having controlling ownership of the group member declines to execute an Agreement of Assumption and Guarantee of Liabilities, the Director may deny the application of the proposed group member. If a group member is acquired by another entity while the group member is self-insured and that new holding company, ultimate parent company, controlling general partnership, or owner having controlling ownership declines to execute an Indemnity Agreement and Power of Attorney (Form S-4 (1-2016)), it shall be deemed cause for revocation of the group member's Affiliate Certificate of Consent to Self-Insure.

(c) The Agreement of Assumption and Guarantee of Liabilities For Group and Affiliate Members shall be written upon a form provided by the Chief (Form S-5 (1-2015)). The form is available on the website of the Office of Self-Insurance Plans at <http://www.dir.ca.gov/osip>.

Note: Authority cited: Sections 54, 55 and 3702.10, Labor Code. Reference: Sections 59, 3550, 3700, 3701, 3701.5, 3702, 3702.10 and 3705, 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 Accounting 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 financial statements showing that the members of the group self-insurer are financially suitable for continued membership in the group;

(2) For each 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 most recent three-year average paid indemnity 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;

(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 does not meet 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 the group meets financial requirements as set forth in Section 15472(a);

(4) The contribution rates, rating plan, or contributions fail to generate sufficient funds to cover the 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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§ 15486. Agreement and Undertaking for Director to Utilize Security Deposit to Pay Benefits Due.

(a) Each group self-insurer applicant shall execute an Agreement and Undertaking For Security Deposit (Form S-6 (1-2016)) as part of the application process.

(b) All security deposits shall be posted in accordance with the provisions of the Agreement and Undertaking, and shall permit the Director of Industrial Relations to order the security deposit to be utilized to pay benefits due pursuant to Labor Code Section 3701.5.

Note: Authority cited: Sections 54, 55 and 3702.10, Labor Code. Reference: Sections 59, 3701, 3701.5 and 3702.10, Labor Code.

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§ 15486.1. Group Self-Insurer Injury and Illness Prevention Program.

(a) As part of the application process, a group self-insurer affiliate member applicant for a Certificate of Consent to Self-Insure shall certify they have implemented an effective Injury Illness Prevention Program as required by Labor Code section 6401.7 and provide the name, title and contact information for the person within their organization responsible for workplace safety.

(b) The Board of Trustees shall direct the Group Administrator to ensure ongoing risk control and safety support to group members. Ongoing risk control and safety support shall be under the general direction of a California Professional Engineer, a Certified Safety Professional, and/or a Certified Industrial Hygienist. The California Professional Engineer, Certified Safety Professional, or Certified Industrial Hygienist shall report the impact of safety and risk control activities to the Board of Trustees no less frequently than annually, and shall solicit continuing support and direction from the Board of Trustees.

Note: Authority cited: Sections 54, 55 and 3702.10, Labor Code. Reference: Sections 59, 3700, 3702, 3702.10, 6314.5, 6319 and 6401.7, Labor Code.

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§ 15487. Delayed Start-Up of a Group Self-Insurer or Group Member Participation in Group Self-Insurance.

(a) The approval by the Director to grant a Certificate of Consent to Self-Insure to a group self-insurer and to any group member shall be initially valid for six (6) months after the date of approval by the Director. If the group self-insurer or any group member has not initiated its self-insurance program within the initial six month period, the approval to grant the Certificate of Consent to Self-Insure shall be void. If so, the group self-insurer or group member shall not be issued a Certificate of Consent to Self-Insure unless the applicant files a new application.

(b) Notwithstanding subsection (a), the Chief may extend the approval for a new group self-insurer or group member for an additional three (3) months upon a showing of good cause.

(c) If a group self-insurer applicant or group member applicant fails to initiate a self-insurance program within six (6) months of notification of approval by the Director, the Chief may require the applicant to provide updated loss information and may recalculate the required security deposit amount.

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

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§ 15491. Group Self-Insurer and Group Member Application Filing Fees.

(a) Each group self-insurer and/or group member making application for a Certificate of Consent to Self-Insure or requesting an Interim Certificate of Consent to Self-Insure shall pay a non-refundable filing fee at the time of filing the application or requesting the Interim Certificate on the following basis:

(1) A filing fee to accompany a new group self-insurer application shall be \$1,000 for the group application;

(2) For each group member's application, the filing fee shall be \$500.

(b) Any subsequent re-filing of an application by an existing group self-insurer or group member following a merger, acquisition, or reincorporation shall be considered a new group self-insurer or group member application and each such new filing shall be subject to a filing fee pursuant to subsections (a)(1) or (a)(2) of this section.

Note: Authority cited: Sections 54, 55 and 3702.10, Labor Code. Reference: Sections 59, 3700, 3702.5 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 of a Certificate of Consent to Self-Insure, the group self-insurer, in the manner provided in subsection (c), shall post an initial security deposit in an amount no less than the following:

(1) An amount equal to sixty percent (60%) of one year average incurred losses of the initial affiliate member(s). The average incurred losses shall be determined by taking the previous three years of incurred losses of the initial member(s), adding them together and dividing by three to determine the one year average incurred loss. The initial deposit shall be posted in four equal installments. The first installment shall be posted within thirty (30) days of the effective date of the certificate to self-insure, and each of the remaining installments shall be posted at ninety days intervals after the initial deposit;

(c) 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 foregoing methods.

(d) 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.

(e) 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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Chapter 8. Office of the Director
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Article 13. Group Self-Insurance

§ 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 thirty (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 and each affiliate group member'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(k).

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.

Title 8. Industrial Relations
Division 1. Department of Industrial Relations
Chapter 8. Office of the Director
Subchapter 2. Administration of Self-Insurance Plans
Article 12. Claims Administration

Repeal existing Form A4-6 (Rev. 11/97) contained in Plate D of the Appendix following section 15463 and replace it with new Form A-4 (1-2016).