

## ARTICLE 13 Group Self Insurance

### §15470. General.

~~(a) A California non-profit, mutual benefit corporation for the sole purpose of operating a group workers' compensation self insurance fund to pool compensation liabilities of two or more private employers shall be established by the organizers or members of any applicant group self insurer pursuant to Part 3 (commencing with Section 7110) of Division 2 of Title 1 of the Corporations Code. This non-profit, mutual benefit corporation shall be the "group self insurer".~~ In order to form and operate a group self insurer for private, for-profit employers, a mutual benefit corporation shall be formed pursuant to Part 3 (commencing with Section 7110) of Division 2 of Title 1 of the California Corporations Code. The mutual benefit corporation shall be the group self insurer and shall be formed for the sole purpose of operating a group workers' compensation self insurance fund to pool compensation liabilities of two or more for-profit private employers

(b) In order to form and operate a group self insurer for private, non-profit employers, a non-profit corporation shall be formed pursuant to Division 2 of Title 1 of the Corporations Code. The non-profit corporation shall be a non-profit charitable corporation, a non-profit public benefit corporation, a non-profit mutual benefit corporation, or a non-profit religious or apostolic corporation, as is appropriate based on the nature and purpose of the non-profit employer. The non-profit corporation shall be the group self insurer and shall be formed for the sole purpose of operating a group workers' compensation self insurance fund to pool compensation liabilities of two or more non-profit private employers.

~~(b) (c)~~ (c) The group self insurer will make application to the Manager for a Certificate of Consent to Self Insure to the Manager as provided in Article 2 Section 15482 of these regulations and, if granted approval by the Director, shall be the holder of the Certificate of Consent to Self Insure.

~~(e) (d)~~ Each proposed group member shall also make application for an Affiliate Certificate to Self Insure to the Manager, as provided in Article 2 of these regulations, and if granted by the Director, shall be the holder of an Affiliate Certificate of Consent to Self Insure under the Certificate to Self Insure granted to the group self insurer. Each initial proposed group member shall make application to the Manager for an Affiliate Certificate of Consent to Self Insure as one of the qualifying group applicants pursuant to Section 15482.1 of these regulations. Once a Certificate of Consent to Self Insure has been approved and issued, each subsequent proposed member shall make application to the Manager for an Affiliate Certificate of Consent to Self Insure pursuant to Section 15482.2 of these regulations. If granted by the Director, each approved member of a group self insurer shall be the holder of an Affiliate Certificate of Consent to Self Insure

under the Certificate of Consent to Self Insure granted to the group self insurer.

~~(d)~~(e) The group self insurer shall post and maintain a security deposit with the Manager as set forth in ~~Article 3~~ Sections 15210 and 15496 of these regulations to secure the expected workers' compensation liabilities of the group self insurer, ~~based on the prior history of liabilities of all its members.~~

~~(e)~~ (f) The group self insurer shall file a Self Insurer's Annual Report as set forth in Article 5 of these regulations and shall estimate compensation liabilities as set forth in Article 6 of these regulations.

~~(f)~~ (g) The group self insurer shall not transfer liabilities to a third party except to a carrier meeting the requirements of Section 15360(c)(4) under a special excess workers' compensation policy as provided by ~~comply with the transfer of liability requirements of Labor Code Section 3702.8(c) and/or as provided by Article 8, Section 15360 of these regulations, and Article 8.~~

~~(g)~~ (h) The group self insurer shall fall under the continuing jurisdiction of the Director and any Certificates or Affiliate Certificates of Consent to Self Insure ~~or Affiliate Certificates of Consent~~ issued to a group self insurer or a group member may be revoked as set forth in Article 10 of these regulations.

~~(h)~~ (i) Hearing and appeal procedures set forth in Article 11 shall be applicable to self insurance matters set forth in Section 15430 involving group self insurers or group members.

~~(i)~~ (j) ~~The~~ Each group self insurer shall comply with recordkeeping and audit requirements in Article 9 and the claims administration requirements of Article 12 of these regulations.

(k) Each private group self insurer shall be subject to assessments as set forth in Article 4 of these regulations.

(l) A group self insurer issued a Certificate of Consent to Self Insure pursuant to Labor Code Section 3700 and these regulations shall not be deemed to be an insurance company and shall not be 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.

**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.

### **§15471. Initial Feasibility Study.**

~~(a)~~ Accompanying Included with each group self insurer's initial application for a Certificate of Consent to Self Insure required by Section ~~15203~~ 15482 of these regulations, shall ~~also~~ be a feasibility study report prepared by the prospective Group Administrator or an independent risk management individual or firm, ~~addressing all of~~ consisting of the following:

~~(1)~~ The (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);

~~(2)~~ (b) Identification of all of the initial proposed group members and the combined total payroll for the proposed group self insurer;

~~(3)~~ (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, completed, full policy years, as well as; the current partially completed policy year to through the most current last completed quarter under the current policy at the time the application is submitted;

~~(4)~~ (d) An evaluation of the historical workers' compensation claims costs for the anticipated initial group members, including an and actuarial projection of the expected claims costs for each of the first five years of the group self insurer's operation. The actuarial projection to must shall be prepared by (A) either an independent person with current experience in making California workers' compensation actuarial projections for self insured employers or group insurance, and who shall have a designation of Fellow of the Casualty Actuarial Society (FCAS); or (B) by be a member of the American Academy of Actuaries (MAAA) with current experience in making California workers' compensation actuarial projections.

~~(5)~~ (e) A five year pro forma financial statement including, ~~as a minimum~~ 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 ~~dividends~~ 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. The claims payout schedule shall be calculated using the 80th percent actuarial confidence level figures from the actuarial study.

~~(6)~~ (f) 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:

~~(A)~~ (1) The group self insurer's legal and organizational structure;

~~(B)~~ (2) Method of governance;

~~(C)~~(3) General management of the pool group self insurer, including underwriting policies, insurance coverage, billing, etc., commissions, fees, and all other expenses.

~~(D)~~(4) Rating or contribution plans, or premiums 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;

~~(E)~~(g) The first 12 month budget of the group self insurer;

~~(F)~~(h) The names and credit ratings of any anticipated excess insurance coverage carriers, including estimated cost, attachment point of levels of retention for specific excess coverage policy insurance, and aggregate excess policy coverage insurance if obtained, (if any); and maximum liability levels of each excess policy;

~~(G)~~(i) Summary The company name and name of the person designated as the independent Group Administrator and the company name of the independent third party claims administration agency administrator chosen by the Board of Trustees to handle the group self insurer's claims;

~~(H)~~(j) A description of safety and loss control services that will be available from the group self insurer to group members;

~~(I)~~(k) A description of the underwriting requirements for initial and subsequent member selection into for the group self insurer, including particular emphasis as to a description of whether any underwriting requirements or restrictions imposed would be excluded from coverage by the specific excess or aggregate excess insurance coverage carrier;

~~(J)~~(l) The Name of the certified public accountant that will prepare annual financial reports for the group self insurer;

~~(K)~~(m) The Name of actuary and their 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; and the frequency of such evaluation reports;

~~(L)~~(n) A statement indicating the Means by which the group self insurer will post the required security deposit and how that cost or deposit will be allocated to the group members; and

~~(M)~~(o) A statement describing any fidelity insurance coverage and errors and omissions insurance coverage that will 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.

**§15472. Minimum Net Worth of Financial Requirements for a Group Self Insurer.**

~~(a) Each applicant group and each group self insurer granted a Certificate to Self Insure shall have and maintain a minimum net worth as provided in Section 15203.2(f). In addition to other requirements specified in this Article 13, no private group shall be approved as a group self insurer, nor continue as a group self insurer, unless it demonstrates aggregate net worth and net earnings of the initial qualifying employer members and continuing qualifying core group core members, as evidenced from the financial statements of those group members, as follows:~~

(1) No less than \$5,000,000 in current consolidated net worth and a consolidated annual net income of the group core members of no less than \$500,000, as documented in certified and independently audited financial statements; or

(2) No less than \$10,000,000 in current consolidated net worth of core group members if the core group members do not demonstrate an consolidated net income of \$500,000, as documented in certified and independently audited financial statements; or

(3) No less than \$15,000,000 in current consolidated net worth of core group members, as documented in certified and independent CPA reviewed financial statements with the reviewer's report attached, or if the qualifying core group members consist, in whole or in part, of IRS Subchapter S - corporations as group members, as documented by certified and independent CPA reviewed financial statements with the reviewer's reports included with each statement.

~~(b) The Group Administrator shall maintain a copy of the current and immediate past year's independently audited financial statement of each group member in the files of the group self insurer. provide to the Manager within 30 days of request documentation showing that the core members of the group self insurer continue to meet the requirements of subsection (a). The core members of the group self insurer need not be the same affiliate group members from year to year.~~

~~(c) The Group Administrator shall immediately advise the Manager in writing if at any time the consolidated net worth of the Core Group members of the self insurer private group self insurer falls below the minimum amount set forth in subsection (a) of this section.~~

(d) Financial statements submitted to qualify group members pursuant to subsection (a) must be prepared according to Generally Accepted Accounting Principles (GAAP). If approved by the Manager and documented in the financial statement or schedules and notes accompanying the financial statement, the following may be accepted as meeting requirements:

(1) If documented in a written report from an independent real estate appraiser acceptable to the Manager and valued no more than 60 days before submission to the Manager, up to 75% of the fair market value of real property of the audit subject, as opposed to the purchase price of the real property when acquired, may be counted as a part of the audit subject's net worth;

(2) If documented in the financial statement and if acceptable to the Manager, up to 50% of a corporate owner/officer's payroll may be considered as earnings rather than liabilities.

#### 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.

### **§15473. Homogeneity of Group Members**

(a) Each private group self insurer shall demonstrate and maintain homogeneity of its group members by one of the following methods:

~~(1) All group members~~ Each group member shall share have the same, predominant, ~~two digit Standard Industrial Classification Code (SIC Code as found in the Standard Industrial Classification Code Manual published by the United States Department of Commerce; or three-digit North American Industry Classification System (NAICS) Code; or~~

~~(2) Each group member shall share the same governing class code as established by the Workers' Compensation Insurance Rating Bureau (WCIRB) definition. All group members are required in the by-laws of the group self insurer or by laws of the group applicant to be members in good standing in a specific industry trade association, and each trade association sponsored group self insurer is limited to one, designated three digit Standard Industrial Classification Code industry grouping.~~

~~Note: A trade association may sponsor more than one group self insurer. , but each would be limited to a single 3 digit SIC Code industry grouping.~~

~~(b) The Manager shall also consider any other information available on the nature of the business of each group member and may require the group applicant or group self insurer to present additional information to verify that all group member applicants meet the requirements of subsection (a) of this section. In addition to the methods for demonstrating homogeneity indicated in subsections (a)(1) and (a)(2), group self insurance applicants may demonstrate homogeneity for the purposes of eligibility for group self insurance if one of the following occurs:~~

(1) The group self insurer demonstrates to the Manager's satisfaction that the risk exposures of an affiliate group member or applicant affiliate group member are comparable to those contemplated in the feasibility study of the group self insurer.

(2) A group member shall be deemed as meeting homogeneity requirements if it is a wholly owned or majority owned subsidiary of a current group member that meets homogeneity requirements, its total payroll does not exceed the total payroll of that current member, and no more than 25% of the combined payroll of the existing member and the proposed group members' payroll fails to meet homogeneity requirements as set forth in subSection (a)15473.

(3) The group self insurer demonstrates to the Manager's satisfaction that no less than 75% of payroll for each affiliate group self insurer or applicant affiliate group self insure is distributed among two shared industry-specific workers' compensation payroll classifications as established by the California Workers' Compensation Insurance Rating Bureau, and WCIRB insurance rates for those classifications are within 10% of each other.

(c) The Manager may require the group applicant or group self insurer to present additional information or documentation to verify that any or all group members or prospective group members meet the requirements of subsections (a) or (b).

(d) A group self insurer shall not modify its homogeneity underwriting requirements in any way unless it first obtains written approval from the Manager. In order to obtain approval from the Manager, the group self insurer must submit a written feasibility study and a draft of amended group self insurer's bylaws to the Manager no less than 30 days before the date of the change requested, addressing the following:

(1) The feasibility study must include:

(A) The reasons for the group self insurer's proposed modification of its homogeneity requirements;

(B) The proposed underwriting requirements for group self insurer membership;

(C) A demonstration that the risk exposures contemplated in the proposed modification are comparable, can reasonably be expected to develop comparable loss experience, and meet the requirements of subsections (a) or (b) of this section;

(D) A statement that the excess insurance carrier or carriers for the group self insurer approve of the modification;

(E) A statement by the Board of Trustees of the group self insurer in support of the modification;

(F) A plan for communication to all group members of the group self insurer describing the proposed modification of homogeneity requirements.

(2) The group self insurer's amended bylaws shall ensure that::

(A) No member of the group self insurer shall be penalized in any way for terminating membership in the group self insurer because of the change in homogeneity requirements;

(B) The modification to homogeneity requirements shall not disqualify any existing group member of the group self insurer that qualifies for membership before the modification of homogeneity requirements.

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

#### **§15474. Reporting Periods.**

All group self insurers shall administer their self insurance program on a calendar year basis. Regardless of initial start-up the date that self insurance begins or the term of the program year of any a private group self insurer, the group self insurer shall file an a Self Insurer's Annual Report by March 1 of each year as required by Section 15251, for the remaining months of that calendar year. While the filing of the group self insurer's first Self Insurer's Annual Report may be for a period shorter than a year, the duration of the initial program year of the private group self insurer, may be shorter or longer than twelve 12 months.

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

#### **§15475. Board of Trustees.**

(a) Each private group self insurer shall have a Board of Trustees that is responsible for all operations of the private group self insurer.

(b) Each trustee on the Board of Trustees shall be elected by the group members or, if each group member has a seat on the Board of Trustees, the trustee may be appointed by the group members. At least two-thirds of the trustees shall be employees or officers of the group members. No service provider, director, officer, or employee of a service provider, or person with a direct or indirect management or financial interest in a service provider of the group self insurer shall serve as a voting member of the Board of Trustees of the group self insurer. -The Group Administrator may be a non-voting member of the Board of Trustees but shall not vote on any matters before the Board. Service providers



of the group self insurer include, but are not limited to, all service providers described in Section 15475.1 of these regulations.

(c) The duties of the Board of Trustees shall include the responsibility to approve or deny the request of any proposed member to join the group self insurer, subject to subsequent application and approval of the proposed group self insurer member by the Director of Industrial Relations.

(d) The Board of Trustees shall take all necessary precautions to protect the assets of the group self insurer, including all of the following:

(1) Designate ~~an independent~~ “Group Administrator” to administer the financial affairs and normal day-to-day operations of the group self insurer and ensure that there are no conflicts of interest or potential conflicts of interest involving the Board of Trustees, the Group Administrator, or any service providers utilized by the group self insurer, as provided by Section 15475.1;

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

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

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

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

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

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

(7) Hire Contract with an actuary that meets the requirements of Section 15471(a)(4)(d) to conduct an annual actuarial review of the group self insurer's claims to establish a level of cash needed to fund anticipated claims; and produce a written actuarial report that projects ultimate liabilities of the group self insurer by program year at the 80% actuarial confidence level and at the 70% expected actuarial confidence level, inclusive of incurred but not reported (IBNR) liabilities and unallocated loss adjustment expense (ULAE) in both calculations to ensure that all claims and associated costs are recognized;

(8) Ensure that contributions are collected for each program year based upon projected losses calculated at the 80% actuarial confidence level, inclusive of incurred but not reported (IBNR) liabilities and unallocated loss adjustment expense (ULAE), that all group members pay their requisite shares of the group self insurer's expenses, that none of the funds collected are extended as credit to any group member for the payment of premiums, and collect delinquent accounts from any group member. and that all group self insurer funds, including funds not immediately needed for the payment of current liabilities of the group self insurer, are handled pursuant to Section 15475.2 and/or invested pursuant to Section 15475.3. If factors reflecting loss histories such as experience modification calculations are utilized to modify group self insurer or individual member contributions, the contributions for the funding of group self insurer claims for the program year shall nonetheless be calculated at the overall 80% confidence level. In addition, The Board shall ensure that credit for contributions due to the group self insurer shall not be extended to any group member nor applied toward the delinquent contributions of another member

(9) Ensure that The Board of Trustees, the group administrator, or fiscal agent shall not utilize any of the funds collected from group members shall not be used for any purpose not directly related to the payment of compensation liabilities of the group self insurer, posting of security deposit, payment of assessments and penalties as a group self insurer or the reasonable costs expenses of operation of the group self insurer. Excess moneys not needed for current operation of the group self insurer shall may be invested by the Board of Trustees, at its discretion, into California government bonds and notes, U.S. Treasury Notes and bonds, U.S. Government Agency issues, investment share accounts in savings and loans or credit unions whose deposits are insured by a federal agency, and savings accounts or certificates of deposit issued by a duly chartered commercial bank. Deposits in banks, savings and loans, or credit unions shall be limited to institutions in

~~the State of California and shall not exceed the federally insured amount in any one account... only as provided by Section 15475.3 of these regulations.~~

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

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

~~(e) The~~ If specifically authorized in the gGroup self insurer's bylaws-By Laws, the Board of Trustees may delegate specific functions to the Ggroup Administrator of the private group self insurer, including, but not limited to:

~~(1) eContracting with the one or more third party claims administrators for the handling of claims;~~

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

~~(3) iInvesting surplus moneys funds~~ subject to Section 15475.3 of these regulations and subsection (d) of this section any others restrictions adopted by the Board of Trustees in addition to those contained in subsection (d);

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

~~(5) eExecuting the Agreements of Assumption and Guarantee For Group Members or and the and Indemnity Agreements on behalf of the group self insurer;~~

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

~~All delegated functions shall be specifically defined in the group self insurer's bylaws.~~

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

### **§15475.1 Separation Among Service Providers.**

(a) No claims administrator or ~~claims bill reviewer of a private group self insured group,~~ ~~or~~ employee, officer, or director of a claims administrator ~~or claims bill reviewer,~~ shall be an employee, officer or director of, or have a direct or indirect management or financial interest in either the Group Administrator or an affiliate member of the private group self insurer, nor shall any owner or employee of the Group Administrator or affiliate member of the private group self insurer be an owner, employee, officer or director of, or have a direct or indirect management or financial interest in ~~either the claims administrator or~~ ~~claims bill reviewer.~~

(b) No Group Administrator, claims administrator, or insurance broker or employee, officer, or director thereof, shall serve as the certified public accountant for any ~~private group self insured group~~ for which ~~that~~ it provides services ~~to~~ as a Group Administrator, claims administrator or insurance broker, respectively, nor shall any ~~or~~ owner or employee of an affiliate group member of ~~private group self insured group~~ serve as the certified public accountant for the group self insurer.

(c) No insurance broker of a ~~private group self insured group,~~ or employee, officer, or director of such insurance broker with a direct or indirect management or financial interest in the ~~group self insured group's~~ claims administrator shall be an employee, officer or director of, or have a direct or indirect management or financial interest in the Group Administrator of the same ~~private group self insured group~~ unless the ~~Group self Administrator~~ notifies the ~~gGroup Administrator~~ self insurer in writing of its relationship, and in no event shall the group self insurer be required by the Group Administrator to utilize ~~only~~ the Group Administrator as broker ~~of record.~~

(d) No actuary of a private self insured group preparing a written actuarial report pursuant to Section 15475(d)(7) shall be an employee, officer or director of, or have a direct or indirect management or financial interest in the Group Administrator of the same private self insured group unless the Group Administrator notifies the group self insurer and the Manager in writing of its relationship; notwithstanding this subsection, the Manager at his or her discretion may require that a written actuarial report pursuant to Section 15475(d)(7) be prepared at the expense of the group self insurer by an independent actuary with no relationship to the group administrator.

(e) No claims bill reviewer of a group self insurer shall be an employee, officer, or director of, or have a direct or indirect management or financial interest in, the Group Administrator of the group self insurer unless the Group Administrator notifies the group self insurer and the Manager in writing of its relationship. In no event shall the group self insurer be required by the Group Administrator to utilize services of the claims bill reviewer in which the Group Administrator has a direct or indirect interest.

**Note** Authority cited: Sections 54, 55 and 3702.10, Labor Code

### **§15475.2 Restriction on Use of Funds**

~~(a)~~ The Board of Trustees shall ensure that, for each program year, all funds collected and earned by the group self insurer and all expenses and costs paid out by the group self insurer shall be fully disclosed, and made available to the group membership as provided in Section 15405(a)(3) of these regulations and provided to the Manager as provided in Section 15484. Contributions for each program year shall be adequate to fund all claims costs, including incurred but not reported (IBNR) and unallocated loss adjustment expense (ULAE) at the 80% actuarial confidence level.

~~(b)~~(a) The private 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 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.

~~(e)~~(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 ten (10) months to collect contributions for the payment of current group members;

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

~~(d)~~ (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.

~~(e)~~(d) Once surplus funds have been declared, 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

### **§15475.3 Investment of Funds.**

(a) Subject to the limitations set forth in Section 15475.2, the Board of Trustees of a private 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 shall have a maximum maturity of two  $\frac{1}{2}$  years, and shall not exceed 15% 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 15216(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)(2) 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

#### **§15476. Advance ~~Premium~~ Contribution Discounts.**

The Board of Trustees of a group self insurer using a premium contribution plan may ~~may~~ shall not authorize ~~advance~~ premium discounts to any member.

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

### **§15477. Surplus or Insufficient Funding.**

(a) The Board of Trustees of a group self insurer shall not declare that surplus contributions collected in excess of the amount necessary to fund all obligations for any given program year will be refunded to group members unless the group self insurer's most recent annual certified, independently audited financial statement indicates that the group self insurer's assets exceed its liabilities and unless the group self insurer's current actuarial report indicates a surplus of group funds for each program year as indicated in subsections (a)(1) and (a)(2) below. In the event that the most recent annual financial statement of the private group self insurer indicates that the group's assets exceed its liabilities, and in the event that the group self insurer's current annual actuarial report indicates a surplus of group funds for a calendar year in excess of the amount necessary to fulfill fund all compensation obligations for that a given program calendar year, including a provision for incurred but not reported claims, the group's Board of Trustees may declare that surplus contributions collected for that year may be refunded to the group members as set forth in subsection (a)(2) below, may be declared to be refundable by the Board of Trustees of the group self insurer at any time.

~~(1) The amount of such declaration shall be a fixed liability of the group self insurer at the time of the declaration and any surplus in the compensation loss fund shall be held for a minimum period of 12 months from the date of the Board of Trustees' declaration. The amount of the refund need not be known at the time of the declaration.~~

~~(2) The date of payment of such refund shall be as agreed to by the Board of Trustees, except that the moneys not needed to satisfy the compensation loss fund requirements as established by the aggregate excess contract, may be refunded immediately after the end of the calendar year.~~

~~Note: It is the intent of this regulation to assure that total assets of the group self insurer are greater than the total liabilities of the group self insurer in each calendar year.~~

~~(2) The group self insurer may transfer the excess funds to an escrow account at any time, but shall not declare surplus fund amounts or distribute any surplus funds to group members for any given program year sooner than 23 months after the close of the program year without express written consent from the Manager. Any such disbursements made without written consent from the Manager, including any subsequent disbursements from the same program year or disbursements from a subsequent program year, shall only be from a program year that remains funded at the 80% actuarial confidence level for the remaining claims in that program year as stated in the most~~



recent annual actuarial report calculated pursuant to Section 15481 of these regulations. Approval from the Manager is not required as long as the group self insurer's current actuarial report and current financial statement support the determination of the surplus amount, and as long as claim funding for each program year meets or exceeds the actuarial 80% confidence level amounts.

(2) ~~However, Notwithstanding subsection (a)(1) of this section, the group self insurer may request the Manager to allow that funds be released sooner than 23 months after the end of a program year and/or that the determination of a program year's surplus be based upon the actuarial study conducted with a confidence factor of less than 80%, and the Manager may allow such a release of surplus funds upon a showing of good cause by the group self insurer. The Manager may require that a special audit be conducted, an independent actuarial study be completed at the group self insurer's expense, and/or other documentation be submitted to support the request from the group self insurer. In no event shall surplus funds be distributed sooner than 23 months after the completion of a program year or based upon actuarial studies conducted at less than an 80% confidence factor without express written consent of the Manager.~~

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

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

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

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

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

(4) Re-evaluation of past group member contribution rates and the projected plan for future contributions from members to properly collect past rating shortfalls, and/or a

revised current and future contribution rating plan for group members for any period of time necessary to correct past and present rate inequities.

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

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

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

(c) ~~(d)~~ If the plan to achieve full funding prompt correction of the funding deficiency for all claims is not approved by the Manager, the Manager may order the Board of Trustees of the group self insurer to immediately assess the group members for the full amount of the deficiency and/or order that any surplus funds or dividends distributed to group members during the previous 12 calendar months from the date of the discovery of the funding deficiency by the group self insurer be immediately returned show good cause before the Director why it should not be ordered by the Director to (1) immediately assess the group members for the full amount of the funding deficiency and/or (2) to order that any surplus funds distributed to group members during the previous twelve 12 calendar months from the date of discovery of the funding deficiency by the group self insurer be immediately returned to the group self insurer; and/or (3) why the Director should not order the appointment of a conservator or liquidator for the group self insurer.

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

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

### **§15478. Excess Insurance.**

(a) ~~All~~ Each private group self insurers shall have and maintain in full force a one or more specific excess workers' compensation insurance policyies issued by an admitted

casualty carrier or carriers authorized to transact such business in the State of California by the California Department of Insurance. The specific excess policy shall not have a minimum retention level above \$500,000 nor an upper limit of less than twenty-five million dollars (\$25,000,000) without express written consent of the Manager pursuant to subsection (b). The minimum upper limit of the policy shall be no less than twenty five million dollars (\$25,000,000), and ~~the~~ The policy may not lapse, be canceled or not renewed otherwise terminated without prior written notice to the Manager and the group self insurer at least no later than 30 days prior to the date of cancellation or non-renewal termination by the carrier. On the policy issuance date and on any subsequent renewal date of the policy, ~~t~~The excess carrier or its parent company shall have an adjusted policyholders' surplus of no less than twenty-five million dollars (\$25,000,000) and ~~and~~ maintain an acceptable credit rating as set forth below:

(1) Standard and Poor's Insurer Financial Strength Rating of A or better rating, or

(2) A.M. Best Company, Financial Strength Rating of B+ or better rating.

If the group self insurer's specific excess carrier's credit rating falls below ~~the~~ requirements of subsections (a)(1) or (a)(2) a B rating as rated by either rating agency specified in subsections (a)(1) or (a)(2), the group self insurer shall replace the policy or obtain new coverage for the remainder of the unused prior policy period and for future coverage through a specific excess carrier that meets the requirements of this section.

(b) Each private group self insurer ~~wishing~~ seeking to maintain a specific excess policy with a retention level above \$500,000 or an upper limit of less than twenty-five million dollars (\$25,000,000) shall first demonstrate in writing to the satisfaction of the Manager through its audited financial statement(s) and a current written actuarial report or portion thereof specifically demonstrating that the group self insurer has the financial strength to assume a retention level above \$500,000 per occurrence and/or an upper limit of the policy of less than twenty-five million dollars (\$25,000,000). The Manager may consider the group self insurer's financial reports, actuarial reports, spread of risk, its level of contributions and/or assessments, current membership size, loss prevention program, any aggregate stop loss insurance policy in place, and/or other factors the requesting group wishes to have the Manager consider in making his or her determination on the request to grant the group self insurer permission to carry specific excess insurance above the \$500,000 per occurrence level. The group self insurer shall maintain specific excess coverage with a minimum \$500,000 self insurer's retention and an upper limit of the policy of less than twenty-five million dollars (\$25,000,000 unless written consent from the Manager for a higher retention level and/or upper limit of less than twenty-five million dollars (\$25,000,000) is obtained. In no event shall the group sSelf iInsurer's rRetention level be greater than \$1,000,000 per occurrence.

~~(b)-(c) Any private group self insurer may have and maintain in full force an aggregate excess workers' compensation insurance policy issued by an admitted casualty insurance carrier authorized to conduct such business in the State of California. The aggregate policy may not be canceled or renewed without prior written notice to the Manager and~~

~~the group self insurer at least days prior to the date of cancellation or non-renewal by the carrier. Note: As set forth in Section 15210.3 of these regulations, no security deposit credit will be allowed for aggregate excess coverage.~~

~~(e) (d) If a group self insurer for any reason is unable to pay compensation due or to post security deposit required or both, and the Director orders the Self Insurer's Security Fund to assume the liabilities of the group self insurer pursuant to Labor Code Section 3701.5, the specific excess carrier or aggregate excess carrier shall make all payments due directly to the Security Fund as would have been made by the excess carrier to the group self insurer after the retention level of the policy had been reached.~~

~~(d) (e) The group self insurer or any affiliate member of the group self insurer shall may not own or have controlling ownership in the specific excess or aggregate excess carrier that issues the policy specific excess policy for the group self insurer. Any known direct ownership in the specific excess carrier or carriers by any current or proposed service providers, including the Group Administrator, shall be disclosed in writing to the group's Board of Trustees along with the price quoted for the policy or policies. No group self insurer or member of a group self insurer shall function as a re-insurer of any specific excess insurance policy or policies issued to a group self insurer or renewed by a group self insurer.~~

**Note** Authority cited: Sections 54, 55 and 3702.10, Labor Code  
Authority cited: Sections 54, 55 and 3702.10, Labor Code. Reference: Sections 3700, 3701, 3701.5, 3702.10 and 3740-3747, Labor Code.

### **§15479. Indemnity Agreement and Power of Attorney.**

(a) Each ~~group~~ member of a ~~private~~ group self insurer shall execute an indemnity agreement and power of attorney that shall be on either a Form A4-8 (Rev. 1/94), Indemnity Agreement and Power of Attorney or another form of an Indemnity Agreement and Power of Attorney which shall be subject to the approval of the Manager.

(b) The ~~Indemnity a~~Agreement and ~~p~~Power of ~~a~~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;~~;~~ ~~and,~~

(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 ~~independently~~ 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; ~~and,~~

(3) Provisions requiring that the Board of Trustees of the group self insurer designate and appoint a Ggroup Aadministrator 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; ~~and,~~

(4) Provisions for the right of the Director of Industrial Relations to substitute an outside Conservator for the Ggroup Aadministrator; ~~and,~~

(5) A provision granting full power of attorney and signature authority to the Ggroup Aadministrator 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 Ggroup Aadministrator shall bind each and every group member jointly and severally.

Note: A copy of Form A4-8 (Rev 1/94), Indemnity Agreement and Power of Attorney, is available from the Manager and is available at <http://sip.dir.ca.gov/> and is contained in the Appendix following the last Article of ~~these Group~~ Chapter 8, Subchapter 2 regulations.

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

### **§15480. Termination of Membership in a Group Self Insurer**

(a) ~~No group member in of a private group self insurer or group self insurer may be involuntarily canceled or terminated from group membership in a by the group self insurer unless at least 60 days advance written notice has been given provided to the group member and to the Manager. Notice to a broker or other third party shall not be deemed as notice to the group member.~~

~~(b) The group self insurer shall remain liable for all compensation liabilities of any group member resulting from any claim with a date of injury during the period of membership in the group self insurer, including the 60 day period required for termination of membership. 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 60 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 60 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.

~~Exception 1: The group self insurer's liability for claims shall terminate on the date of issuance of a standard workers' compensation insurance policy issued by a admitted carrier.~~

~~Exception 2: A former self insurer's claims may be transferred to a carrier as set forth in Labor Code Section 3702.8(e) under a special excess workers' compensation policy.~~

~~(c) Notice to the Manager of termination of a group member from a group self insurer as set forth in subsection (a) of this section shall be good cause for revocation of the Affiliate Certificate issued to the group member on the termination date or the policy issue date as set forth in subsection (b) of this section. 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 self insured group insured 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. Pursuant to Labor Code Section 3702.8(e), a current or former group member's claims liabilities may be transferred to a carrier meeting the requirements of Section 15360(c)(1) under a special excess workers' compensation policy.~~

~~(3) A current or former group member's claims may be transferred to another private self insured group if the Bylaws of the two groups permit the transfer, and if the transfer is approved by the Manager.~~

~~(4) A current or former group member's claims may be transferred entirely to the individual member under its individual Certificate of Consent to Self Insure if all of the following apply:~~

~~A. If the Bylaws of the group self insurer permit the transfer;~~

~~B. If a valid individual Certificate of Consent to Self Insure is issued to the former group member by the Director; and~~

~~C. If the transfer is approved by the Manager.~~

~~(d) Notice to the Manager of involuntary cancellation or termination of a group member from a private group self insured group 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 Manager.

(e) Any group member leaving a group self insurer shall provide proof of workers' compensation coverage to the Manager and to the private group self insurer within 45 days after the notice of cancellation or termination, whether such notice is Notice to the Manager may be provided by from 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 Manager, and no proof of insurance need be provided. Unless the group member no longer has employees in California, the Manager 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, group, 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.

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

### **§15481. Annual Actuarial Certification of Losses.**

(a) At least every other year, Annually, each private group self insurer shall have obtain an actuarial analysis by program year ~~done~~ of its historical claim loss development, at the 80% confidence level and at the 70% expected confidence level, including incurred but not reported (IBNR) projections and unallocated loss adjustment expense (ULAE) for both calculations a projection of loss development. The actuary performing this study shall have current experience in performing such actuarial projections involving California workers' compensation claims, and shall be either:

(1) An Associate or Fellow of the Casualty Actuary Society; or

(2) A Member of the American Academy of Actuaries.

(b) The analysis and results of the study shall be presented to the group self insurers' insurer's Board of Trustees and made available in written form to the Board of Trustees and to any group member requesting a copy. The study shall be commenced immediately following the close of the ninth month of each calendar year and the written report

presented to the Group Administrator and the Board of Trustees by January 1 of the new calendar year within ninety (90) days after the end of the group self insurer's program year.

(c) The Group Administrator shall submit the written annual actuarial report shall be provided annually to the Manager by March 1 of each required year it is prepared by the group administrator within 120 days of the end of the group self insurer's program year. Included with the annual actuarial report, on a form provided by the Manager, shall be an indication of the following for each program year reported on the Self Insurer's Annual Report:

(1) The amount of ultimate losses projected at the 80% confidence level and at the 70% expected confidence level, inclusive of incurred but not reported (IBNR) liabilities and unallocated loss adjustment expense (ULAE) in calculations for each of the program years covered by the report;

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

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

(d) The Board of Trustees shall ensure that contribution rates for the initial funding of claims losses for the group each program year shall be based on the actuarial projection at the 80% confidence level as provided by Section 15475(d)(8).

Note: Sample By Laws. A sample of bylaws for a Group Self Insurer to assist groups in developing a set of by laws is in the appendix following these regulations.

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

### **§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 Manager a complete Application for A Certificate Of Consent To Self Insure By A Group Of Employers for the group and a complete Applications For An Affiliate Certificate Of Consent To Self Insure As A Member Of A Group Self Insurer for each of the initial core members of the group no less than 60 days before the requested effective date of self insurance. Applications shall be made on:

(1) Form A4-3 for a private group seeking a group Certificate of Consent to Self Insure;



(2) Form A4-3M 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 the initial proposed core members of the group and shall include the attachments requested in the application form itself, and, as applicable, the following:

(1) A current financial statement, together with all schedules and notes, for each proposed initial core member. Qualifying financial information for a private group member or applicant may be included in the consolidated financial statement of its parent company or owner if the parent or owner executes an Agreement of Assumption and Guarantee of Workers' Compensation Liabilities pursuant to Section 15211.2 of these regulations.

(2) A duly executed Resolution by the Board of Trustees (Form GR-1 [Rev. 1/94] ) 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;

(3) 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 For Workers' Compensation Liabilities on behalf of the proposed group members and any future members of the group self insurer granted an Affiliate Certificate;

(4) An Agreement of Assumption and Guarantee of Workers' Compensation Liabilities For Group Members [Form A4-3G (Rev. 1/94)] listing each initial proposed group member and executed by the applicant group self insurer as required in Section 15483 of these regulations;

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

(6) A written evaluation of the proposed qualifying core group members' injury and illness prevention programs or copy of a DOSH evaluation report as specified in Section 15486.1 of these regulations;

(7) 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.

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

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

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

### **§15482.1. Private Group Member Application**

(a) A complete group member application to self insure on a Form A4-3M (Rev. 1/94) 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) A current financial statement together with all schedules and notes if the applicant group member will be considered a core group member as defined in Section 15201(p) of these regulations. For applications for non-core members of a group self insurer that has qualified financially to self insure pursuant to Section 15472, no financial statement need be submitted with the application. However, 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 gGroup sSelf iInsurer;

(3) A duly executed Indemnity Agreement and Power of Attorney [Form A4-8 (Rev. 1/94)], as required by Section 15479 of these regulations;

(b) Notwithstanding subsection (a)(1), at the discretion of the Manager, an employer with projected contributions of 25% or more of the group self insurer's projected total contributions for the coming program year shall be required to submit a financial statement to the Manager.

(c) 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.

(d) A new application may be required whenever a member of an existing affiliate group self insurer reincorporates, merges, or otherwise changes ownership.

**Note** Authority cited: Sections 54, 55 and 3702.10, Labor Code

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; and Sections 15374-15378, Government Code.

**§15482.2. Interim Certificates to Group Members.**

(a) The Manager 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 Manager within 180 days of the effective date of the Interim Certificate. However, the Manager may extend the Interim Certificate for an additional period of up to 90 days upon a showing of good cause by the Interim Self Insurer.

(b) To qualify for issuance of an Interim Certificate to its group members, the existing private group self insurer must demonstrate the following:

(1) The core members of the group self insurer must document that they meet the financial requirements as set forth in Section 15472(a);

(2) The 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 request for an Interim Certificate on behalf of the new group member shall be submitted by the Group Administrator to the Manager. The request shall be in writing and shall include the following information regarding the proposed new group member to the group self insurance program:

(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 new proposed group member during the last 12-months through at least the last quarter, an estimate of the payroll for the next 12 month period, and an estimate of the new proposed group member's annual group contributions to the group self insurer;

(4) The new proposed member's NAICS code, experience modification, and a description of the type of business it conducts.

(5) A signed statement from the Group Administrator certifying that the proposed group member meets the homogeneity and underwriting requirements of the private 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 Manager 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 applicant for the Interim Certificate 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 ~~submission of a new group member issued an Interim Certificate of Consent to Self Insure as a private group self insurer~~ shall be ~~in accordance with~~ 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 Manager and to the group self insurer no later than 60 days after the date of revocation by the department. The ~~self insured~~ 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 60<sup>th</sup> day any Notice of Intent to Revoke the Certificate issued by the Manager, whichever comes first. The employer shall remain liable for payment of contributions and assessments as required by the ~~self insured~~ group self insurer for the employer's period of coverage as a member of the group self insurer.

(2) The Manager 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 Manager and after 45 days from such denial has not produced proof of coverage for workers' compensation liabilities to the Manager in the form of a binder, certificate of insurance or policy.

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

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

(a) ~~Private~~ Each group self insurer~~s~~ shall provide an Agreement of Assumption and Guarantee of Liabilities of Workers' Compensation Liabilities For Group Members for each group member, or a single Agreement of Assumption and Guarantee of Liabilities of Workers' Compensation Liabilities For Group Members listing all group members and all subsidiary or affiliates of 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 the an Agreement of Assumption and Guarantee of Liabilities of Workers' Compensation Liabilities For Group Members for any each proposed group member, the Director shall deny the application to self insure of the private proposed group member~~self insurer~~, or, if an Interim Certificate of Consent to Self Insure has been issued to any a group member and the group self insurer declines to execute the guarantee 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~~self insurer~~.

(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 a new 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 Agreement of Assumption and Guarantee of Liabilities, 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 shall be written upon a form provided by the Manager (Form A4-3 (Rev. 11/97)). The form is available on the website of the Office of Self Insurance Plans at <http://sip.dir.ca.gov/>.

**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.

#### **§15484. Continuing Financial Capacity of Private Groups Self Insurers.**

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

program year. If the private group self insurer is unable to submit a current certified, independently audited financial statement at that time, the group self insurer or Group Administrator shall advise the Manager and the reasons therefore in writing and immediately submit its un-audited financial statement to the Manager. The group self insurer shall then obtain a current certified, independently audited financial statement within sixty (60) days and submit it to the Manager.

(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 part 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 member of a private group self insurer shall annually submit to the Board of Trustees or the Group Administrator of the group self insurer ensure that: ensure that group members maintain their suitability for group self insurer membership as follows:

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

(2) For each other group member, the group self insurer may annually determine the group member's suitability for membership in the group self insurer's group by review of

a tax return, credit report, or other appropriate documentation as specified in the bylaws of the group self insurer~~d group~~.

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

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

(1) The group self insurer's actuarially projected claim liabilities for each program year at the 80% actuarial confidence level, or at a lesser actuarial confidence level if authorized by the Manager pursuant to Section 15477(a)(2);

(2) The expected administrative expenses needed to meet the group self insurer's day to day obligations; and

(3) The continued posting of the required security deposit.

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

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

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

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

(3) The Ggroup Aadministrator fails to submit documentation as provided by subsection (d) to substantiate that core members of the meet financial requirement as set forth in subsection (c)(1) and Section 15472(a);

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

(h) Demonstration of impaired solvency of the group self insurer as described in subsection (f) 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.

**Note:** Authority cited: Sections 54, 55 and 3702.10, Labor Code. Reference: Sections 59, 3700, 3701, 3702 and 3702.10, Labor Code.§15485.

**15485. Resolution To Authorize Self Insurance for a Private Group Self Insurer or Group Member.**

(a) The resolution to authorize self insurance of workers' compensation required as part of the application for a Certificate of Consent to Self Insure by any private group member applicant shall be adopted by the bBoard of dDirectors of each corporation, the general partners of an applicant partnership or joint venture, the managing member of a limited liability corporation, the owner of an applicant sole proprietorship, or the Board of Trustees of an applicant group self insurer. 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 authorized employees who have the authority to sign the application, execute any and all documents required for the application and do subsequent acts as required to maintain self insurance approval.

(b) A group self insurer resolution Form GR-1 (Rev. 1/94) shall be executed by the group self insurer applicant's Board of Trustees and included as part of the private group application. A model group self insurer resolution, Form GR-1 (Rev. 1/94), is available at <http://sip.dir.ca.gov/>.

(c) If a private self insurer group member or group self insurer reincorporates, merges, or changes its identity, a new resolution shall be submitted to the Manager within 30 days to ratify the maintenance of the self insured's responsibility under the successor's identity. The Manager may extend the period of time for good cause. Good cause is determined within the sole discretion of the Manager.

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

**§15486. Agreement and Undertaking for Director to Utilize Security Deposit To Pay Benefits Due.**

(a) Each private group self insurer applicant shall execute an Agreement and Undertaking For Security Deposit as part of the application process.

(b) All security deposits shall be posted in accordance with the provisions of the Agreement and Undertaking<sub>3</sub> 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.

**§15486.1. Private Group Self Insurer Injury and Illness Prevention Program.**

(a) As part of the application process, a private group self insurer applicant for a Certificate of Consent to Self Insure shall provide one of the following:

(1) A written independent evaluation of each core applicant employer's injury and illness prevention program as set forth in Labor Code Section 6401.7, ~~said~~ The evaluation shall be completed by an independent, licensed, California Professional Engineer, a Certified Safety Professional certified by the Board of Certified Safety Professionals, and/or a Certified Industrial Hygienist. The evaluation preparer shall disclose to the Manager in the evaluation report if any of the following are true:

(A) The preparer or the preparer's firm has had any business dealings with the applicant group self insurer, any of the applicant members being evaluated, or any applicant member's owner over the two years preceding the evaluation;

(B) The preparer is or has been employed by the present or prior insurance carrier or insurance broker of any applicant member being evaluated at any time during the five years preceding the evaluation; or

(C) The preparer or preparer's firm has been employed by the applicant or its parent in a safety and health or accident prevention capacity at any time during the two years preceding the evaluation.

(2) A copy of a written report of inspection and evaluation of the core applicant employer's injury and illness prevention program conducted by the Division of Occupational Safety and Health (DOSH) pursuant to Labor Code Sections 6314.5. The Division of Occupational Safety and Health inspection shall have been conducted within 120 days of the date of the application to become self insured.

(b) An evaluation report conducted pursuant to subsection (a) that shows the applicant member for a Certificate of Consent to Self Insure to be without an effective injury and illness prevention program shall be good cause for denial of the group member application for self insurance without prejudice to reapplication at a later date when the employer has submitted an evaluation report showing the applicant member to have an effective injury and illness prevention program.

(c) The applicant core group member must abate all serious violations found in any report prepared as provided by this section. Written verification of abatement must be provided to the Office of Self Insurance Plans by the report preparer to document such abatement. Failure to document abatement of any serious violations shall be good cause for denial of the application.

(d) Each private group self insurer shall institute an effective injury and illness prevention program among its membership. Each new and existing member of the group self insurer shall adopt and maintain an effective injury and illness prevention program.

(e) 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.

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

(a) The approval by the Director to grant a Certificate of Consent to Self Insure to a private group self insurer and to any group member shall be initially valid for six 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 Manager 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 private group self insurer applicant or group member applicant fails to initiate a self insurance program within three months of notification of approval by the Director, the Manager 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.

**§15488. Initial Issuance of the Certificate of Consent to Self Insure and Notice to Employees of Self Insured Status.**

(a) No group self insurer~~ance~~ applicant or affiliate group self nsurer~~ance~~ applicant may commence self insurance until the applicant has posted the required security deposit with the Department of Industrial Relations through the Office of Self Insurance Plans and has submitted proof of specific excess insurance pursuant to Section 15478 of these regulations.

(b) The group member shall prominently display the original or a copy of the Certificate of Consent to Self Insure at the group member's place of business in California.

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

(d) If a private group self insurer or affiliate group member is required to provide evidence of its approved self insured status to prove compliance with Labor Code Section 3700, the Manager shall provide to the Group Administrator certification of self insurance to be distributed by the Group Administrator for this purpose. One can determine whether an employer is self insured or not electronically at the website of the Office of Self Insurance Plans at <http://sip.dir.ca.gov/>. Beginning January 1, 2009 ~~July 1, 2008~~, there is a ten dollar (\$10) fee for signed certification of self insured status.

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

### **§15489. Reporting Group Charter Amendments**

The Group Administrator and/or Board of Trustees of any ~~private~~ group self insurer shall notify the Manager in writing and provide copies of any amendment, change, or update to the group self insurer's charter, Articles of Incorporation, or bylaws, including changes to the group self insurer's underwriting criteria, or group operating agreement. Notification shall be made within 30 days of the change.

#### **§15489.1. Change in Status.**

(a) The ~~private~~ group self insurer and/or group member shall notify the Manager in writing within 30 days of any of the following:

(1) Any amendment to an affiliate group member employer's~~s~~ charter, articles or agreement of incorporation, association, or co-partnership which changes its identity, business structure, or ownership in a material manner from the status as it existed at the time of issuance of its Certificate of Consent to Self Insure;

(2) If ~~t~~The group self insurer or any group member proposes to cease doing business entirely, proposes to cease doing business in California, or proposes to dispose of, by sale or otherwise, the controlling interest of the business for which the Certificate of Consent to Self Insure or Affiliate Certificate of Consent to Self Insure was issued.

(b) If any ~~private~~ group self insurer or group member desires to retain its self insured status following any amendment to the articles, charter, or agreement of incorporation, association, or co-partnership which changes its identity or business structure or ownership, the group self insurer or Group Administrator shall provide to the Manager the following information:

(1) A written description of ~~the date~~ the event(s) and the date it occurred;

(2) Copies of Certificates of Status or other appropriate registration documents filed with the Secretary of State in which the self insurer is incorporated concerning the change of the self insurer's status; and

(3) Written notice indicating that the group self insurer and/or group member will continue to provide financial statements or other financial documentation pursuant to Section 15484;

(c) If a group self insurer~~d~~ or group member reincorporates, merges, or changes its identity, a new resolution shall be submitted to the Manager in accordance with Section 15485 of these regulations.

**Note:** Authority cited: Sections 54, 55 and 3702.10, Labor Code. Reference: Sections 59, 3700, 3701, 3701.5, 3702, 3702.3, 3702.10 and 3703, Labor Code.

#### **§15490. Validity of Certificate to ~~Private~~ Group Self Insurer or Group Member.**

(a) A Certificate of Consent to Self Insure shall be valid only to the private corporation, partnership, company, subsidiary, affiliate entity, limited liability corporation, group self insurer, or other ~~private~~ group member to which the Certificate of Consent to Self Insure, Interim Certificate, or Affiliate Certificate of Consent to Self Insure was issued. No subsidiary or affiliate of an affiliate group self insurer shall be deemed as self insured as a member of the group self insurer unless it has been issued an Interim Certificate of Consent to Self Insure pursuant to Section 15482.2 or has applied for and been approved for an ~~A~~affiliate Certificate of Consent to Self Insure as a member of the group.

(b) Except as provided in Labor Code Section 3701.7, the Manager shall not issue a group member Interim or Affiliate Certificate of Consent to Self Insure with an effective date earlier than the date the approval of the group member by the Board of Directors of the group self insurer.

(c) Once the self insurance program of a group self insurer or a member of a group self insurer has been initiated after approval by the Director, the certificate issued shall be valid until revoked by order of the Director.

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

**§15490.1. Reinstatement of a Private Group or Group Member Certificate or Affiliate Certificate of Consent to Self Insure.**

(a) A private group self insurer or group member that because of a legal change in business or corporate structure or in its legal name has had its self insurance privilege terminated may have its Certificate of Consent to Self Insure reinstated without lapse, provideding that the group self insurer or group member can re-qualify for self insurance.

(b) To request reinstatement of a Certificate or of an Affiliate Certificate of Consent to Self Insure following a change in status by the group self insurer or a group member, the group member self insurer or Group Administrator shall submit to the Manager a written statement describing the nature of the change. The Manager may request any documents necessary to verify the change in status which the group member self insurer or Group Administrator shall provide. The group self insurer also shall provide to the Manager a statement signed by the Group Administrator that the group self insurer's Assumption and Guarantee of all workers' compensation liabilities will include any additional self insured liabilities incurred after the a group member's change in status, or, if indicated, a new Assumption and Guarantee Agreement regarding the affected group member.

(c) Upon satisfactory compliance with subsection (b) the Manager may prepare and issue an order reflecting the change in status of the group self insurer and/or group members and reinstating its Certificate of Consent to Self Insure.

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

**§15491. Private Group Self Insurer and Group Member Application Filing Fees.**

(a) Each private 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 and an additional \$500 for each group member application submitted with the group self insurer's application;

(2) For each additional group member's application, the filing fee shall be \$500 if no Interim Certificate has previously been issued to the applicant; ~~and~~ or \$400 if an Interim Certificate has been issued and is in effect at the time the application is submitted;

(3) For each Request for an Interim Certificate submitted pursuant to Section 15482.1 of these regulations, the filing fee shall be \$100.

(b) ~~For a~~ Any subsequent re-filing of an application by an existing ~~private~~ 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) through (a)(3) 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.

#### **§15496. Private Group Self Insurer's Security Deposit.**

(a) Each ~~private~~ 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 Annual Report has been filed, no less than as determined pursuant to Labor Code Section 3701 and subsections (a)(1) through (a)(3) of this section, calculated as:

(1) 135 percent of the group ~~private~~ self insurer's estimated future liabilities for the payment of compensation for known claims; and

(2) An amount posted in advance for liabilities of the current year, consisting of the average annual estimated future liability over the past five (5) years reported on the Self Insurer's Annual Report; and

(3) An adjustment to reduce the liabilities reported on individual claims based on documentation of specific excess insurance coverage pursuant to Section 15300(e) of these regulations.

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

(1) The statutory minimum amount pursuant to Labor Code Section 3701(b);

(2) No less than 60% of one year ultimate losses based on the actuarial report submitted with the application for the group self insurer;

(3) A higher amount approved by the Director.

(c) If the group self insurer initially posts a security deposit of 60% of one year's projected ultimate losses in accordance with subsection (b)(2), the group self insurer shall ensure that the amount posted is no less than 135% of one year's projected ultimate losses after one year of self insurance by increasing its security deposit by an amount no less than 25% of one year's projected ultimate losses in three equal installments. The installments shall be at intervals of 120 days or less, with the first installment being posted no later than 120 days after the effective date of self insurance.

(d) Notwithstanding subsection (c), each new affiliate member of the group self insurer issued an Interim Certificate or an Affiliate Certificate of Consent to Self Insure whose exposure was not contemplated in the calculation of the initial security deposit shall post an additional amount equal to an average year's incurred losses over the past three years as documented by the applicant's prior insurance carrier, or, if the applicant is a new employer with no loss history, calculated based on one year's projected contributions. The increase in security deposit for the new affiliate group member shall be posted within 30 days of issuance of the Interim Certificate or Affiliate Certificate of Consent to Self Insure.

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

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

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

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

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

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

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

(g) A group self insurer or group member requesting a hearing pursuant to Article 11 shall provide proof of workers' compensation coverage under a policy from an admitted

carrier for the period of time without the required security deposit or deposit increase, or proof of compliance with the Manager'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.

**§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 Manager at least annually following receipt of the private group's Self Insurer's Annual Report. If following the receipt of the group self insurer's annual report 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 May 1 of that year.

(b) In addition to any increase in the security deposit pursuant to subsection (a), the Manager 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) ~~At the request of any private~~ No group self insurer for a reduction or where a decrease in shall reduce its the security deposit requirement based on the calculations pursuant to Section 15496(a), ~~no reduction of security deposit posted shall be made without prior written authorization from the Manager.~~

(d) For good cause, the Manager may require a group self insurer to increase its security deposit at any time. Good cause includes, but is not limited to, increases in group membership, increases in losses - as indicated in Self Insurer's Annual Report 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 Manager to the private group self insurer a letter demanding the increase, a perfected security interest in the private group self insurer's assets to the extent of any unsecured portion of the group self insurer's incurred liabilities is shall be created in favor of the Director pursuant to Labor Code Section 3701(j).~~;~~

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



**§15497.1. Security Deposit Adjustment Upon Revocation of Group Self Insurer or Group Member Certificates.**

(a) In the event of the revocation of a Certificate of Consent to Self Insure of a private group self insurer or Affiliate Certificate of Consent to Self Insure of a group member self insurer, whether voluntarily or involuntarily, the Manager shall determine the need for a special revocation audit of the claims of the private group self insurer and/or group member and/or the need for a deposit adjustment to secure future liabilities of the revoked private group self insurer or group member pursuant to Labor Code Section 3701 and Sections 15301 and 15497 of these regulations.

(b) The amount of security deposit and/or the deposit rate required by the Manager in conjunction with the revocation of a private the group self insurer's Certificate of Consent to Self Insure may be at an amount or rate above the minimum required by Labor Code Section 3701.

**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.

**§15498. Insurance Coverage.**

(a) Any private group self insurer or group member shall be permitted to insure all or part of its liability to secure the payment of compensation pursuant to Labor Code Section 3700 by obtaining a standard workers' compensation insurance policy issued by an admitted carrier. Complete insurance coverage of a group member's workers' compensation liabilities under a standard workers' compensation insurance policy shall be good cause for revocation of the private group member's Affiliate Certificate of Consent to Self Insure. Complete insurance coverage for all members of a group self insurer or a number of group members sufficient to reduce the size of the group self insurer to the extent that it no longer meets net worth and/or financial requirements to operate as a group self insurer shall be good cause for revocation of the private group self insurer's Certificate of Consent to Self Insure.

(b) Each private group self insurer and private group member shall provide the Manager with information regarding any standard workers' compensation insurance policies, specific excess workers' compensation insurance coverage, and/or any aggregate excess (stop loss) workers' compensation insurance coverage obtained for the group self insurer or any group member upon the request of the Manager. Documentation related to such insurance coverage, including Certification of Insurance, any binders or endorsements, or Notices of Cancellation, shall be provided to the Manager upon request.

(c) The Group Administrator of the group self insurer shall provide a Certificate of Insurance, a copy of the workers' compensation insurance policy or policies maintained by the group self insurer or its group members, including any binders or endorsements,

and copies of insurer loss runs related to the group self insurer or any affiliate group member self insurer upon request of the Manager.

(d) A group self insurer that elects to purchase an aggregate excess policy shall not be given any credit or reductions in its security deposit requirement based on its aggregate excess coverage.

(e) A private group self insurer or group member may sell off any or all of its workers' compensation liabilities through the purchase of a special excess workers' compensation insurance policy or policies pursuant to Labor Code Section 3702.8(c).

**Note:** Authority cited: Sections 54, 55 and 3702.10, Labor Code. Reference: Sections 59, 129, 3700, 3701, 3701.5, 3702, 3702.8, 3740, 3743 and 3744, Labor Code.

#### **§15499. Allocation of the Security Deposit for a Group Self Insurer.**

(a) The liabilities of each member of a group self insurer for its period of self insurance shall be included within the security deposit of the group self insurer.

(b) Each security deposit posted by a private group self insurer, regardless of type of deposit, shall be applicable to the liabilities of all members of the group self insurer and shall be amended, if necessary, to include all new members added to the group self insurer.

(c) No portion of the overall security deposit for ~~that~~ a group self insurer ~~plan~~ may be allocated or limited to any specific affiliate or subsidiary under the Master Certificate of the group self insurer.

**Note:** Authority cited: Sections 54, 55 and 3702.10, Labor Code. Reference: Sections 129, 3700, 3700(b), 3701, 3702, 3702.5, 3702.6, 3702.8, 3703, 3704, 3705 and 3740-3745, Labor Code; and Section 189, Corporations Code.

#### **§15499.5. Appeals to Increases in Security Deposits ~~Due to~~ Based on Impaired Group Self Insurer Financial Condition.**

(a) In the event the Manager has required an increase in security deposit ~~due to~~ based upon the impaired financial status of the group self insurer, and if the group self insurer wishes seeks to appeal the Manager's decision, upon receipt of the written appeal the Manager shall order a detailed, independent third party financial and/or actuarial evaluation of the private group self insurer by a group self insurance risk and/or actuarial consultant in order to evaluate the group self insurer's financial status. The cost of the third party financial evaluation report shall be paid by the group self insurer.

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

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