

ARTICLE 8

Transfer of Liabilities

§15360. Transfer of Claim Liabilities.

A current or former self insurer may transfer claim liabilities to a third party as set forth in subsections (a) through (e) of this section.

(a) Self-insured workers' compensation claim liabilities cannot be transferred to another entity without first applying for and receiving permission from the Director. Except as provided in Labor Code Section 3702.8(c), the claim liabilities being transferred shall be assumed and guaranteed with the standard Agreement of Assumption and Guarantee of Liabilities as provided for in Section 15211.2 of these regulations, with an assumption resolution executed by the Board of Directors if a corporation, by the general partners if a partnership, or by the owners if a sole proprietorship of the entity taking over the liabilities.

(1) The new holder of claim liabilities shall post the security deposit determined necessary by the Manager pursuant to Article 3 or Article 13 of these regulations. whichever is applicable

(2) The Manager shall be provided with copies of the necessary documents involved in a sale or transfer of claim liabilities from a self-insurer to another party.

(3) All other duties of a self insured employer in Labor Code Section 3702.8(a) shall be complied with by the self insured employer.

(b) The Manager may authorize the contractual transfer of claim liabilities, other than through a special excess worker's compensation insurance policy, from a self-insurer to an admitted worker's compensation insurance carrier provided:

(1) A copy of the signed contract between the self-insurer and carrier is provided to the Manager;

(2) The self-insurer continues to post the amount of deposit required by the Manager pursuant to Article 3 of these regulations;

(3) The claims contractually transferred to the carrier are administered in California by an admitted carrier or by a administrative agency holding a Certificate to Administer;

(4) Self Insurer's Annual Reports are submitted by the self-insurer as required by these regulations until all claims are resolved; and

(5) All other duties of a self insurer in Labor Code Section 3702.8(a) are complied with by the self insured employer.

(c) Where a former self-insurer transfers liabilities to a carrier via a special excess workers' compensation insurance policy as provided in Labor Code Section 3702.8(c), but no carrier performance bond is posted, the self-insurer's security deposit shall be held for three years before release. Whether a performance bond is posted or not, the director shall not accept the special excess policy as meeting the requirements of Labor Code Section 3702.8(c)(3) unless the excess carrier or its parent company has an acceptable credit rating as set forth below:

(1) Standard and Poors Insurer Financial Strength Rating of A or better rating, or

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

(d) Claim liabilities of a member public agency of a pooling workers' compensation joint powers authority may be transferred if:

(1) The joint powers authority agreement permits a member public agency to take their claim liabilities out of the joint powers authority pool if the public agency elects to do so;

(2) The public agency member elects to transfer its claim liability; and

(3) The claims are transferred to another workers' compensation joint authority, or to a self administered or administrative agency administered or carrier administered self insurance program.

(e) Private group self insurers and/or their group members shall not transfer their claim liabilities shall not be transferred and shall remain the liability of the group self insurer except as provided by Labor Code Section 3702.8(c) or Section 15480(c)(3) or (c)(4) of these regulations.

~~EXCEPTION: Claim liabilities of a former group member may be transferred pursuant to Labor Code Section 3702.8(e).~~

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, 3705 and 3740-3745, Labor Code.