

CHAPTER 79A

WORKERS' COMPENSATION SELF-INSURANCE

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79A.01 DEFINITIONS.

Subdivision 1. **Scope.** For the purposes of this chapter, the terms defined in this section have the meaning given them.

[For text of subs 2 and 3, see M.S.1994]

Subd. 4. **Insolvent self-insurer.** "Insolvent self-insurer" means: (1) a member private self-insurer who has failed to pay compensation as a result of a declaration of bankruptcy or insolvency by a court of competent jurisdiction and whose security deposit has been called by the commissioner pursuant to chapter 176; (2) a member self-insurer who has failed to pay compensation and who has been issued a certificate of default by the commissioner and whose security deposit has been called by the commissioner pursuant to chapter 176; or (3) a member or former member private self-insurer who has failed to pay an assessment required by section 79A.12, subdivision 2, and who has been issued a certificate of default by the commissioner and whose security deposit has been called by the commissioner.

[For text of subs 5 to 9, see M.S.1994]

Subd. 10. **Common claims fund.** "Common claims fund," with respect to group self-insurers, means the cash, cash equivalents, or investment accounts maintained by the mutual self-insurance group to pay its workers' compensation liabilities.

History: 1995 c 231 art 2 s 17-19; 1995 c 258 s 59

79A.02 SELF-INSURERS' ADVISORY COMMITTEE.

Subdivision 1. **Membership.** For the purposes of assisting the commissioner, there is established a workers' compensation self-insurers' advisory committee of five members that are employers authorized to self-insure in Minnesota. Three of the members and three alternates shall be elected by the self-insurers' security fund board of trustees and two alternates shall be appointed by the commissioner.

Subd. 2. **Advice to commissioner.** At the request of the commissioner, the committee shall meet and shall advise the commissioner with respect to whether or not an applicant to become a private self-insurer in the state of Minnesota has met the statutory requirements to self-insure. The department of commerce may furnish the committee with any financial data which it has, but a member of the advisory committee who may have a conflict of interest in reviewing the financial data shall not have access to the data nor participate in the discussions concerning the applicant. Financial data received from the commissioner is nonpublic data. The committee shall advise the commissioner if it has any information that any private self-insurer may become insolvent.

[For text of subd 3, see M.S.1994]

Subd. 4. Recommendations to commissioner regarding revocation. After each fifth anniversary from the date each individual and group self-insurer becomes certified to self-insure, the committee shall review all relevant financial data filed with the department of commerce that is otherwise available to the public and make a recommendation to the commissioner about whether each self-insurer's certificate should be revoked. For group self-insurers who have been in existence for five years or more and have been granted renewal authority, a level of funding in the common claims fund must be maintained at not less than the greater of either: (1) one year's claim losses paid in the most recent year; or (2) one-third of the security deposit posted with the department of commerce according to section 79A.04, subdivision 2.

History: 1995 c 231 art 2 s 20-22; 1995 c 258 s 60

79A.03 SELF-INSURANCE APPLICATIONS.

[For text of subs 1 to 4, see M.S.1994]

Subd. 4a. Exceptions. Notwithstanding the requirements of subdivisions 3 and 4, the commissioner, pursuant to a review of an existing self-insurer's financial data, may continue a self-insurer's authority to self-insure for one year if, in the commissioner's judgment based on all factors relevant to the self-insurer's financial status, the self-insurer will be able to meet its obligations under this chapter for the following year. The relevant factors to be considered must include, but must not be limited to, the liquidity ratios, leverage ratios, and profitability ratios of the self-insurer. Where a self-insurer's authority to self-insure is continued under this subdivision, the self-insurer may be required to post security in the amount equal to two times the amount of security required under section 79A.04, subdivision 2.

[For text of subs 5 to 12, see M.S.1994]

History: 1995 c 231 art 2 s 23; 1995 c 258 s 61

79A.04 PRIVATE SELF-INSURING EMPLOYER; ANNUAL RENEWAL OR DEPOSIT OF NEW SECURITY FOR PAYMENT OF COMPENSATION.

[For text of subd 1, see M.S.1994]

Subd. 2. Minimum deposit. The minimum deposit is 110 percent of the private self-insurer's estimated future liability. Up to ten percent of that deposit may be used to secure payment of all administrative and legal costs, and unpaid assessments required by section 79A.12, subdivision 2, relating to or arising from the employer's self-insuring. As used in this section, "private self-insurer" includes both current and former members of the self-insurers' security fund; and "private self-insurers' estimated future liability" means the private self-insurers' total of estimated future liability as determined by an Associate or Fellow of the Casualty Actuarial Society every year for group member private self-insurers and, for a nongroup member private self-insurer's authority to self-insure, every year for the first five years. After the first five years, the nongroup member's total shall be as determined by an Associate or Fellow of the Casualty Actuarial Society at least every two years, and each such actuarial study shall include a projection of future losses during the period until the next scheduled actuarial study, less payments anticipated to be made during that time.

All data and information furnished by a private self-insurer to an Associate or Fellow of the Casualty Actuarial Society for purposes of determining private self-insurers' estimated future liability must be certified by an officer of the private self-insurer to be true and correct with respect to payroll and paid losses, and must be certified, upon information and belief, to be true and correct with respect to reserves. The certification must be made by sworn affidavit. In addition to any other remedies provided by law, the certification of false data or information pursuant to this subdivision may result in a fine imposed by the commissioner of commerce on the private self-insurer up to the amount of \$5,000, and termination of the private self-insurers' authority to self-insure. The determination of private self-insurers' estimated future liability by an Associate or Fellow of the Casualty Actuarial Society shall be

conducted in accordance with standards and principles for establishing loss and loss adjustment expense reserves by the Actuarial Standards Board, an affiliate of the American Academy of Actuaries. The commissioner may reject an actuarial report that does not meet the standards and principles of the Actuarial Standards Board, and may further disqualify the actuary who prepared the report from submitting any future actuarial reports pursuant to this chapter. Within 30 days after the actuary has been served by the commissioner with a notice of disqualification, an actuary who is aggrieved by the disqualification may request a hearing to be conducted in accordance with chapter 14. Based on a review of the actuarial report, the commissioner of commerce may require an increase in the minimum security deposit in an amount the commissioner considers sufficient.

Estimated future liability is determined by first taking the total amount of the self-insured's future liability of workers' compensation claims and then deducting the total amount which is estimated to be returned to the self-insurer from any specific excess insurance coverage, aggregate excess insurance coverage, and any supplementary benefits or second injury benefits which are estimated to be reimbursed by the special compensation fund. Supplementary benefits or second injury benefits will not be reimbursed by the special compensation fund unless the special compensation fund assessment pursuant to section 176.129 is paid and the reports required thereunder are filed with the special compensation fund. In the case of surety bonds, bonds shall secure administrative and legal costs in addition to the liability for payment of compensation reflected on the face of the bond. In no event shall the security be less than the last retention limit selected by the self-insurer with the workers' compensation reinsurance association. The posting or depositing of security pursuant to this section shall release all previously posted or deposited security from any obligations under the posting or depositing and any surety bond so released shall be returned to the surety. Any other security shall be returned to the depositor or the person posting the bond.

As a condition for the granting or renewing of a certificate to self-insure, the commissioner may require a private self-insurer to furnish any additional security the commissioner considers sufficient to insure payment of all claims under chapter 176.

[For text of subs 3 to 8, see M.S.1994]

Subd. 9. Insolvency, bankruptcy, or default; utilization of security deposit. The commissioner of labor and industry shall notify the commissioner and the security fund if the commissioner of labor and industry has knowledge that any private self-insurer has failed to pay workers' compensation benefits as required by chapter 176. If the commissioner determines that a court of competent jurisdiction has declared the private self-insurer to be bankrupt or insolvent, and the private self-insurer has failed to pay workers' compensation as required by chapter 176 or, if the commissioner issues a certificate of default against a private self-insurer for failure to pay workers' compensation as required by chapter 176, or failure to pay an assessment to the self-insurers' security fund when due, then the security deposit shall be utilized to administer and pay the private self-insurers' workers' compensation or assessment obligations.

[For text of subs 10 to 16, see M.S.1994]

History: 1995 c 231 art 2 s 24,25

79A.06 THIRD-PARTY ADMINISTRATOR.

[For text of subs 1 to 4, see M.S.1994]

Subd. 5. Private employers who have ceased to be self-insured. Private employers who have ceased to be private self-insurers shall discharge their continuing obligations to secure the payment of compensation which is accrued during the period of self-insurance, for purposes of Laws 1988, chapter 674, sections 1 to 21, by compliance with all of the following obligations of current certificate holders:

- (1) Filing reports with the commissioner to carry out the requirements of this chapter;
- (2) Depositing and maintaining a security deposit for accrued liability for the payment of any compensation which may become due, pursuant to chapter 176. However, if a private

employer who has ceased to be a private self-insurer purchases an insurance policy from an insurer authorized to transact workers' compensation insurance in this state which provides coverage of all claims for compensation arising out of injuries occurring during the period the employer was self-insured, whether or not reported during that period, the policy will discharge the obligation of the employer to maintain a security deposit for the payment of the claims covered under the policy. The policy may not be issued by an insurer unless it has previously been approved as to form and substance by the commissioner; and

(3) Paying within 30 days all assessments of which notice is sent by the security fund, for a period of seven years from the last day its certificate of self-insurance was in effect. Thereafter, the private employer who has ceased to be a private self-insurer may either: (a) continue to pay within 30 days all assessments of which notice is sent by the security fund until it has no incurred liabilities for the payment of compensation arising out of injuries during the period of self-insurance; or (b) pay the security fund a cash payment equal to four percent of the net present value of all remaining incurred liabilities for the payment of compensation under sections 176.101 and 176.111 as certified by a member of the casualty actuarial society. Assessments shall be based on the benefits paid by the employer during the calendar year immediately preceding the calendar year in which the employer's right to self-insure is terminated or withdrawn.

In addition to proceedings to establish liabilities and penalties otherwise provided, a failure to comply may be the subject of a proceeding before the commissioner. An appeal from the commissioner's determination may be taken pursuant to the contested case procedures of chapter 14 within 30 days of the commissioner's written determination.

Any current or past member of the self-insurers' security fund is subject to service of process on any claim arising out of chapter 176 or this chapter in the manner provided by section 5.25, or as otherwise provided by law. The issuance of a certificate to self-insure to the private self-insured employer shall be deemed to be the agreement that any process which is served in accordance with this section shall be of the same legal force and effect as if served personally within this state.

History: 1995 c 128 art 1 s 3

79A.09 SECURITY FUND.

[For text of subs 1 to 3, see M.S.1994]

Subd. 4. Confidential information. The security fund may receive private data concerning the financial condition of private self-insurers whose liabilities to pay compensation have become its responsibility. The data shall become public data upon its receipt by the security fund.

[For text of subd 5, see M.S.1994]

History: 1995 c 231 art 2 s 26

79A.15 SURETY BOND FORM.

The form for the surety bond under this chapter shall be:

STATE OF MINNESOTA
DEPARTMENT OF COMMERCE
SURETY BOND OF SELF-INSURER OF WORKERS' COMPENSATION

IN THE MATTER OF THE CERTIFICATE OF)
)
)) SURETY BOND
)) NO.
)) PREMIUM:
))
Employer, Certificate No:)

KNOW ALL PERSONS BY THESE PRESENTS:

That (Employer)
whose address is
as Principal, and (Surety)

a corporation organized under the laws of and authorized to transact a general surety business in the State of Minnesota, as Surety, are held and firmly bound to the State of Minnesota in the penal sum ofdollars (\$.....) for which payment we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

WHEREAS in accordance with Minnesota Statutes, chapter 176, the principal elected to self-insure, and made application for, or received from the commissioner of commerce of the state of Minnesota, a certificate to self-insure, upon furnishing of proof satisfactory to the commissioner of commerce of ability to self-insure and to compensate any or all employees of said principal for injury or disability, and their dependents for death incurred or sustained by said employees pursuant to the terms, provisions, and limitations of said statute;

NOW THEREFORE, the conditions of this bond or obligation are such that if principal shall pay and furnish compensation, pursuant to the terms, provisions, and limitations of said statute to its employees for injury or disability, and to the dependents of its employees, then this bond or obligation shall be null and void; otherwise to remain in full force and effect.

FURTHERMORE, it is understood and agreed that:

1. This bond may be amended, by agreement between the parties hereto and the commissioner of commerce as to the identity of the principal herein named; and, by agreement of the parties hereto, as to the premium or rate of premium. Such amendment must be by endorsement upon, or rider to, this bond, executed by the surety and delivered to or filed with the commissioner.

2. The surety does, by these presents, undertake and agree that the obligation of this bond shall cover and extend to all past, present, existing, and potential liability of said principal, as a self-insurer, to the extent of the penal sum herein named without regard to specific injuries, date or dates of injuries, happenings or events.

3. The penal sum of this bond may be increased or decreased, by agreement between the parties hereto and the commissioner of commerce, without impairing the obligation incurred under this bond for the overall coverage of the said principal, for all past, present, existing, and potential liability, as a self-insurer, without regard to specific injuries, date or dates of injuries, happenings or events, to the extent, in the aggregate, of the penal sum as increased or decreased. Such amendment must be by endorsement.

4. The aggregate liability of the surety hereunder on all claims whatsoever shall not exceed the penal sum of this bond in any event.

5. This bond shall be continuous in form and shall remain in full force and effect unless terminated as follows:

(a) The obligation of this bond shall terminate upon written notice of cancellation from the surety, given by registered or certified mail to the commissioner of commerce, state of Minnesota, save and except as to all past, present, existing, and potential liability of the principal incurred, including obligations resulting from claims which are incurred but not yet reported, as a self-insurer prior to effective date of termination. This termination is effective 60 days after receipt of notice of cancellation by the commissioner of commerce, state of Minnesota.

(b) This bond shall also terminate upon the revocation of the certificate to self-insure, save and except as to all past, present, existing, and potential liability of the principal incurred, including obligations resulting from claims which are incurred but not yet reported, as a self-insurer prior to effective date of termination. The principal and the surety, herein named, shall be immediately notified in writing by said commissioner, in the event of such revocation.

6. Where the principal posts with the commissioner of commerce, state of Minnesota, or the state treasurer, state of Minnesota, a replacement security deposit, in the form of a surety bond, irrevocable letter of credit, cash, securities, or any combination thereof, in the full amount as may be required by the commissioner of commerce, state of Minnesota, to secure all incurred liabilities for the payment of compensation of said principal under Minnesota Statutes, chapter 176, the surety is released from obligations under the surety bond upon the date of acceptance by the commissioner of commerce, state of Minnesota, of said replacement security deposit.

7. If the said principal shall suspend payment of workers' compensation benefits or shall become insolvent or a receiver shall be appointed for its business, or the commissioner of commerce, state of Minnesota, issues a certificate of default, the undersigned surety will become liable for the workers' compensation obligations of the principal on the date benefits are suspended. The surety shall begin payments within 14 days under paragraph 8, or 30 days under paragraph 10, after receipt of written notification by certified mail from the commissioner of commerce, state of Minnesota, to begin payments under the terms of this bond.

8. If the surety exercises its option to administer claims, it shall pay benefits due to the principal's injured workers within 14 days of the receipt of the notification by the commissioner of commerce, state of Minnesota, pursuant to paragraph 7, without a formal award of a compensation judge, the commissioner of labor and industry, any intermediate appellate court, or the Minnesota supreme court and such payment will be a charge against the penal sum of the bond. Administrative and legal costs and payment of assessments incurred by the surety in discharging its obligations and payment of the principal's obligations for administration and legal expenses and payment of assessments under Minnesota Statutes, chapters 79A and 176, shall also be a charge against the penal sum of the bond; however, the total amount of this surety bond set aside for the payment of said administrative and legal expenses and payment of assessments shall be limited to a maximum ten percent of the total penal sum of the bond unless otherwise authorized by the security fund.

9. If any part or provision of this bond shall be declared unenforceable or held to be invalid by a court of proper jurisdiction, such determination shall not affect the validity or enforceability of the other provisions or parts of this bond.

10. If the surety does not give notice to the (self-insurer's security fund) (commercial self-insurance group security fund) and the commissioner of commerce, state of Minnesota, within two business days of receipt of written notification from the commissioner of commerce, state of Minnesota, pursuant to paragraph 7, to exercise its option to administer claims pursuant to paragraph 8, then the (self-insurer's security fund) (commercial self-insurance security fund) will assume the payments of the workers' compensation obligations of the principal pursuant to Minnesota Statutes, chapter 176. The surety shall pay, within 30 days of the receipt of the notification by the commissioner of commerce, state of Minnesota, pursuant to paragraph 7, to the (self-insurer's security fund) (commercial self-insurance group security fund) as an initial deposit an amount equal to ten percent of the penal sum of the bond, and shall thereafter, upon notification from the (self-insurer's security fund) (commercial self-insurance group security fund) that the balance of the initial deposit had fallen to one percent of the penal sum of the bond, remit to the (self-insurer's security fund) (commercial self-insurance group security fund) an amount equal to the payments made by the (self-insurer's security fund) (commercial self-insurance group security fund) in the three calendar months immediately preceding said notification. All such payments will be a charge against the penal sum of the bond.

11. Disputes concerning the posting, renewal, termination, exoneration, or return of all or any portion of the principal's security deposit or any liability arising out of the posting or failure to post security, or the adequacy of the security or the reasonableness of administrative costs, including legal costs, arising between or among a surety, the issuer of an agreement of assumption and guarantee of workers' compensation liabilities, the issuer of a letter of credit, any custodian of the security deposit, the principal, or the (self-insurer's security fund) (commercial self-insurance group security fund) shall be resolved by the commissioner of commerce pursuant to Minnesota Statutes, chapters 79A and 176.

12. Written notification to the surety required by this bond shall be sent to:

.....
Name of Surety
.....
To the attention of Person or
Position
.....
Address
.....
City, State, Zip

Written notification to the principal required by this bond shall be sent to:

.....
Name of Principal
.....
To the attention of Person or
Position
.....
Address
.....
City, State, Zip

13. This bond is executed by the surety to comply with Minnesota Statutes, chapter 176, and said bond shall be subject to all terms and provisions thereof.

.....
Name of Surety
.....
Address
.....
City, State, Zip

THIS bond is executed under an unrevoked appointment or power of attorney.
I certify (or declare) under penalty of perjury under the laws of the state of Minnesota that the foregoing is true and correct.

.....
Date
.....
Signature of Attorney-In-Fact
.....
Printed or Typed Name of
Attorney-In-Fact

A copy of the transcript or record of the unrevoked appointment, power of attorney, by-laws, or other instrument, duly certified by the proper authority and attested by the seal of the insurer entitling or authorizing the person who executed the bond to do so for and in behalf of the insurer, must be filed in the office of the commissioner of commerce or must be included with this bond for such filing.

History: 1995 c 231 art 2 s 27

COMMERCIAL SELF-INSURANCE GROUPS

79A.19 COMMERCIAL SELF-INSURANCE GROUPS; DEFINITIONS.

Subdivision 1. **Scope.** For the purposes of sections 79A.19 to 79A.32, the terms defined in this section have the meanings given them. If there is any inconsistency between this section and section 79A.01, the provisions of this section shall govern.

Subd. 2. **Accountant.** "Accountant" means a certified public accountant who is not an employee of any member of the commercial self-insurance group and is not affiliated with

any individual or organization providing services other than accounting services to the group.

Subd. 3. **Actuary.** "Actuary" means an individual who has attained the status of associate or fellow of the casualty actuarial society who is not an employee of any member of the commercial self-insurance group and is not affiliated with any individual or organization providing services other than actuarial services to the group.

Subd. 4. **Common claims fund.** "Common claims fund" means the cash, cash equivalents, or investment accounts maintained by the commercial self-insurance group to pay its workers' compensation liabilities.

Subd. 5. **Member.** "Member" means an employer that participates in a commercial self-insurance group.

Subd. 6. **Commercial self-insurance group.** "Commercial self-insurance group" means a group of employers that are self-insured for workers' compensation under chapter 176 and elects to operate under sections 79A.19 to 79A.32 rather than sections 79A.01 to 79A.18.

Subd. 7. **Commercial self-insurance group security fund.** "Commercial self-insurance group security fund" means the commercial self-insurance group security fund established pursuant to this chapter.

Subd. 8. **Trustees.** "Trustees" means the board of trustees of the commercial self-insurance group security fund.

History: 1995 c 231 art 2 s 28

79A.20 ELIGIBILITY REQUIREMENTS FOR COMMERCIAL SELF-INSURANCE GROUPS.

Subdivision 1. **Group eligibility.** A commercial self-insurance group consists of two or more employers in similar industries. The commercial self-insurance group shall not incorporate or form a business trust pursuant to chapter 318.

Subd. 2. **Membership eligibility.** A commercial self-insurance group may only admit employers who meet the eligibility requirements established by the group including financial criteria, underwriting guidelines, risk profile, and any other requirements stated in the commercial self-insurance group's bylaws or plan of operation.

History: 1995 c 231 art 2 s 29

79A.21 COMMERCIAL SELF-INSURANCE GROUP APPLICATION.

Subdivision 1. **Procedure.** (a) Groups proposing to become licensed as commercial self-insurance groups must complete and submit an application on a form or forms prescribed by the commissioner.

(b) The commissioner shall grant or deny the group's application to self-insure within 60 days after a complete application has been filed, provided that the time may be extended for an additional 30 days upon 15 days' prior notice to the applicant.

Subd. 2. **Required documents.** All applications must be accompanied by the following:

(a) A detailed business plan including the risk profile of the proposed membership, underwriting guidelines, marketing plan, minimum financial criteria for each member, and financial projections for the first year of operation.

(b) A plan describing the method in which premiums are to be charged to the employer members. The plan shall be accompanied by copies of the member's workers' compensation insurance policies in force at the time of application. In developing the premium for the group, the commercial self-insurance group shall base its premium on the Minnesota workers' compensation insurers association's manual of rules, loss costs, and classifications approved for use in Minnesota by the commissioner. Each member applicant shall, on a form approved by the commissioner, complete estimated payrolls for the first 12-month period that the applicant will be self-insured. Premium volume discounts per the plan will be permitted if they can be shown to be consistent with actuarial standards.

(c) A schedule indicating actual or anticipated operational expenses of the commercial self-insurance group. No authority to self-insure will be granted unless, over the term of the

policy year, at least 65 percent of total revenues from all sources for the year are available for the payment of its claim and assessment obligations. For purposes of this calculation, claim and assessment obligations include the cost of allocated loss expenses as well as special compensation fund and commercial self-insurance group security fund assessments but exclude the cost of unallocated loss expenses.

(d) An indemnity agreement from each member who will participate in the commercial self-insurance group, signed by an officer of each member, providing for joint and several liability for all claims and expenses of all of the members of the commercial self-insurance group arising in any fund year in which the member was a participant on a form approved by the commissioner. The indemnity agreement shall provide for assessments according to the group's bylaws on an individual and proportionate basis.

(e) A copy of the commercial self-insurance group bylaws.

(f) Evidence of the security deposit required under section 79A.24, accompanied by the actuarial certification study for the minimum security deposit as required under section 79A.24.

(g) Each initial member of the commercial self-insurance group shall submit to the commercial self-insurance group accountant its most recent annual financial statement. Financial statements for a period ending more than six months prior to the date of the application must be accompanied by an affidavit, signed by a company officer under oath, stating that there has been no material lessening of the net worth nor other adverse changes in its financial condition since the end of the period. Individual group members constituting at least 75 percent of the group's annual premium shall submit reviewed or audited financial statements. The remaining members may submit compilation level statements. Statements for a period ending more than 12 months prior to the date of application cannot be accepted.

(h) A compiled combined financial statement of all group members prepared by the commercial self-insurance group's accountant and a list of members included in such statements.

(i) A copy of each member's accountant's report letter from the reports used in compiling the combined financial statements.

(j) A list of all members and the percentage of premium each represents to the total group's annual premium for the policy year.

Subd. 3. Approval. The commissioner shall approve an application for self-insurance upon a determination that all of the following conditions are met:

(1) a completed application and all required documents have been submitted to the commissioner;

(2) the financial ability of the commercial self-insurance group is sufficient to fulfill all obligations that may arise under this chapter or chapter 176;

(3) the annual premium of the commercial self-insurance group to be charged to initial members is at least \$500,000;

(4) the commercial self-insurance group has contracted with a service company to administer its program; and

(5) the required securities or surety bond shall be on deposit prior to the effective date of coverage for the commercial self-insurance group.

History: 1995 c 231 art 2 s 30

79A.22 COMMERCIAL SELF-INSURANCE GROUP OPERATING REQUIREMENTS.

Subdivision 1. Board of directors. (a) A commercial self-insurance group shall elect a board of directors who shall have complete authority over and control of the assets of the commercial self-insurance group. The board of directors will also be responsible for all of the operations of the commercial self-insurance group.

(b) The majority of the board of directors shall be owners, officers, directors, partners, or employees of members of the commercial self-insurance group. No third-party administrator or vendor of risk management services shall serve as a director of the commercial self-insurance group.

(c) The directors shall approve applications for membership in the commercial self-insurance group.

Subd. 2. Financial standards. Commercial self-insurance groups shall have and maintain:

(1) combined net worth of all of the members in an amount at least equal to 15 times the group's selected retention level of the workers' compensation reinsurance association;

(2) sufficient assets and liquidity in the group's common claims fund to promptly and completely meet all obligations of its members under this chapter and chapter 176.

Subd. 3. New membership. The commercial self-insurance group shall file with the commissioner the name of any new employer that has been accepted in the group prior to the initiation date of membership along with the member's signed indemnity agreement and evidence the member has deposited sufficient premiums with the group as required by the commercial self-insurance group's bylaws or plan of operation. The security deposit of the group will be increased to an amount equal to 50 percent of the new member's premium. The department of commerce may, at its option, review the financial statement of any applicant whose premium equals 25 percent or more of the group's total premium.

Subd. 4. Commercial self-insurance group common claims fund. (a) Each commercial self-insurance group shall establish a common claims fund.

(b) Each commercial self-insurance group shall, not less than ten days prior to the proposed effective date of the group, collect cash premiums from each member equal to not less than 20 percent of the member's annual workers' compensation premium to be paid into a common claims fund, maintained by the group in a designated depository. The remaining balance of the member's premium shall be paid to the group in a reasonable manner over the remainder of the year. Payments in subsequent years shall be made according to the business plan.

(c) Each commercial self-insurance group shall initiate proceedings against a member when that member becomes more than 15 days delinquent in any payment of premium to the fund.

(d) There shall be no commingling of any assets of the common claims fund with the assets of any individual member or with any other account of the service company or fiscal agent unrelated to the payment of workers' compensation liabilities incurred by the group.

Subd. 5. Joint and several liability. Each member of a commercial self-insurance group shall be jointly and severally liable for the obligations incurred by any member of the same group under chapter 176 for any fund year in which the member was a participant of the commercial self-insurance group.

Subd. 6. Annual audit. The accounts and records of the common claims fund shall be audited in the manner required under section 79A.03, subdivision 10.

Subd. 7. Investments. (a) Any securities purchased by the common claims fund shall be in such denominations and with dates of maturity to ensure securities may be redeemable at sufficient time and in sufficient amounts to meet the fund's current and long-term liabilities.

(b) Cash assets of the common claims fund may be invested in the following securities:

(1) direct obligations of the United States government, except mortgage-backed securities of the Government National Mortgage Association;

(2) bonds, notes, debentures, and other instruments which are obligations of agencies and instrumentalities of the United States including, but not limited to, the federal National Mortgage Association, the federal Home Loan Mortgage Corporation, the federal Home Loan Bank, the Student Loan Marketing Association, and the Farm Credit System, and their successors, but not including collateralized mortgage obligations or mortgage pass-through instruments;

(3) bonds or securities that are issued by the state of Minnesota and that are secured by the full faith and credit of the state;

(4) certificates of deposit which are insured by the federal Deposit Insurance Corporation and are issued by a Minnesota depository institution;

(5) obligations of, or instruments unconditionally guaranteed by, Minnesota depository institutions whose long-term debt rating is at least AA-, or Aa3, or their equivalent by at least two nationally recognized rating agencies.

Subd. 8. Administration. (a) The commercial self-insurance group shall be required to secure administrative services through a service company which maintains an office in the state of Minnesota. Services provided by the service company or its subcontractor should at a minimum include claim handling, safety and loss control, and submission of all required regulatory reports.

(b) The service company must demonstrate it has the capability to provide, through its employees or by contract, services which are necessary to administer the self-insurance group and it must employ or have under contract a claims adjuster with at least three years of Minnesota specific workers' compensation claim handling experience.

(c) The service company retained by a commercial self-insurance group to administer workers' compensation claims shall estimate the total accrued liability of the group for the payment of compensation for the commercial self-insurance group's annual report to the commissioner and shall make the estimate both in good faith and with the exercise of a reasonable degree of care.

Subd. 9. Marketing and communications. A commercial self-insurance group's applications, coverage documents, quotations, and all marketing materials must prominently display information indicating that the commercial self-insurance group is a self-insured program, that members are jointly and severally liable for the obligations of the commercial self-insurance group, and that members will be assessed on an individual and proportionate basis for any deficits created by the commercial self-insurance group.

Subd. 10. Reinsurance. (a) A commercial self-insurance group shall be required to purchase specific excess coverage with the workers' compensation reinsurance association at the lower retention level for its first three years of operation. After that time it may select the higher or super retention level with prior notice given to and approval of the commissioner.

(b) The commissioner may require a commercial self-insurance group to purchase aggregate excess coverage. Any reinsurance or excess coverage purchased other than that of the workers' compensation reinsurance association must be secured with an insurance company or reinsurer licensed to underwrite such coverage in Minnesota and maintains at least an "A" rating with the A.M. Best rating organization.

Subd. 11. Disbursement of fund surplus. (a) One hundred percent of any surplus money for a fund year in excess of 125 percent of the amount necessary to fulfill all obligations under the workers' compensation act, chapter 176, for that fund year may be declared refundable to a member at any time. The date shall be no earlier than 18 months following the end of such fund year. The first disbursement of fund surplus may not be made prior to the completion of an operational audit by the commissioner. There can be no more than one refund made in any 12-month period. When all the claims of any one fund year have been fully paid, as certified by an actuary, all surplus money from that fund year may be declared refundable.

(b) The commercial self-insurance group shall give notice to the commissioner of any refund. Said notice shall be accompanied by a statement from the commercial self-insurer group's certified public accountant certifying that the proposed refund is in compliance with paragraph (a).

Subd. 12. Satisfaction of fund deficit. In the event of a deficit in any fund year, such deficit shall be paid up immediately, either from surplus from a fund year other than the current fund year, or by assessment of the membership. The commissioner shall be notified within ten days of any transfer of surplus funds. The commissioner, upon finding that a deficit in a fund year has not been satisfied by a transfer of surplus from another fund year, shall order an assessment to be levied on a proportionate basis against the members of the commercial self-insurance group during that fund year sufficient to make up any deficit.

History: 1995 c 231 art 2 s 31

79A.23 COMMERCIAL SELF-INSURANCE GROUP REPORTING REQUIREMENTS.

Subdivision 1. **Required reports to commissioner.** Each commercial self-insurance group shall submit the following documents to the commissioner.

(a) An annual report shall be submitted by April 1 showing the incurred losses, paid and unpaid, specifying indemnity and medical losses by classification, payroll by classification, and current estimated outstanding liability for workers' compensation on a calendar year basis, in a manner and on forms available from the commissioner. In addition each group will submit a quarterly interim loss report showing incurred losses for all its membership.

(b) Each commercial self-insurance group shall submit within 45 days of the end of each quarter:

(1) a schedule showing all the members who participate in the group, their date of inception, and date of withdrawal, if applicable;

(2) a separate section identifying which members were added or withdrawn during that quarter; and

(3) an internal financial statement and copies of the fiscal agent's statements supporting the balances in the common claims fund.

(c) The commercial self-insurance group shall submit an annual certified financial audit report of the commercial self-insurance group fund by April 1 of the following year. The report must be accompanied by an expense schedule showing the commercial self-insurance group's operational costs for the same year including service company charges, accounting and actuarial fees, fund administration charges, reinsurance premiums, commissions, and any other costs associated with the administration of the group program.

(d) An officer of the commercial self-insurance group shall, under oath, attest to the accuracy of each report submitted under paragraphs (a), (b), and (c). Upon sufficient cause, the commissioner shall require the commercial self-insurance group to submit a certified audit of payroll and claim records conducted by an independent auditor approved by the commissioner, based on generally accepted accounting principles and generally accepted auditing standards, and supported by an actuarial review and opinion of the future contingent liabilities. The basis for sufficient cause shall include the following factors:

(1) where the losses reported appear significantly different from similar types of groups;

(2) where major changes in the reports exist from year to year, which are not solely attributable to economic factors; or

(3) where the commissioner has reason to believe that the losses and payroll in the report do not accurately reflect the losses and payroll of the commercial self-insurance group.

If any discrepancy is found, the commissioner shall require changes in the commercial self-insurance group's business plan or service company recordkeeping practices.

(e) Each commercial self-insurance group shall submit by August 15 a copy of the group's annual federal and state income tax returns or provide proof that it has received an exemption from these filings.

(f) With the annual loss report each commercial self-insurance group shall report to the commissioner any worker's compensation claim where the full, undiscounted value is estimated to exceed \$50,000, in a manner and on forms prescribed by the commissioner.

(g) Each commercial self-insurance group shall submit by May 1 a list of all members and the percentage of premium each represents to the total group's premium for the previous calendar year.

(h) Each commercial self-insurance group shall submit by May 1 the following documents prepared by the group's certified public accountant:

(1) a compiled combined financial statement of group members and a list of members included in this statement; and

(2) a report that the statements which were combined have met the requirements of subdivision 2.

(i) If any group member comprises over 25 percent of total group premium, that member's statement must be reviewed or audited and must be submitted to the commissioner by May 1 of the following year.

(j) Each commercial self-insurance group shall submit a copy of each member's accountant's report letter from the reports used in compiling the combined financial statements.

Subd. 2. Required reports from members to group. Each member of the commercial self-insurance group shall, by April 1, submit to the group its most recent annual financial statement, together with other financial information the group may require. These financial statements submitted must not have a fiscal year end date older than January 15 of the group's calendar year end. Individual group members constituting at least 75 percent of the group's annual premium shall submit to the group reviewed or audited financial statements. The remaining members may submit compilation level statements.

Subd. 3. Operational audit. (a) The commissioner, prior to authorizing surplus distribution of a commercial self-insurance group's first fund year or no later than after the third anniversary of the group's authority to self-insure, shall conduct an operational audit of the commercial self-insurance group's claim handling and reserve practices as well as its underwriting procedures to determine if they adhere to the group's business plan. The commissioner may select outside consultants to assist in conducting the audit. After completion of the audit, the commissioner shall either renew or revoke the commercial self-insurance group's authority to self-insure. The commissioner may also order any changes deemed necessary in the claims handling, reserving practices, or underwriting procedures of the group.

(b) The cost of the operational audit shall be borne by the commercial self-insurance group.

Subd. 4. Unit statistical report. Each commercial self-insurance group will annually file a unit statistical report to the Minnesota workers' compensation insurers association.

History: 1995 c 231 art 2 s 32

79A.24 COMMERCIAL SELF-INSURANCE GROUP SECURITY DEPOSIT.

Subdivision 1. Annual securing of liability. Each year every commercial self-insurance group shall secure future incurred liabilities for the payment of compensation and the performance of the obligations of its membership imposed under chapter 176. A new deposit must be posted within 30 days of the filing of the commercial self-insurance group's annual actuarial report with the commissioner.

Subd. 2. Minimum deposit. The minimum deposit is 150 percent of the commercial self-insurance group's future incurred liabilities for the payment of compensation as determined by an actuary. If all the members of the commercial self-insurance group have submitted reviewed or audited financial statements to the group's accountant, this minimum deposit shall be 110 percent of the commercial self-insurance group's future incurred liabilities for the payment of workers' compensation as determined by an actuary. The group must file a letter with the commissioner from the group's accountant which confirms that the compiled combined financial statements were prepared from members reviewed or audited financial statements only before the lower security deposit is allowed. Each actuarial study shall include a projection of future losses during a one-year period until the next scheduled actuarial study, less payments anticipated to be made during that time. Deduction should be made for the total amount which is estimated to be returned to the commercial self-insurance group from any specific excess insurance coverage, aggregate excess insurance coverage, and any supplementary benefits which are estimated to be reimbursed by the special compensation fund. Supplementary benefits will not be reimbursed by the special compensation fund unless the special compensation fund assessment pursuant to section 176.129 is paid and the required reports are filed with the special compensation fund. In the case of surety bonds, bonds shall secure administrative and legal costs in addition to the liability for payment of compensation reflected on the face of the bond. In no event shall the security be less than the group's selected retention limit of the workers' compensation reinsurance association. The posting or depositing of security under this section shall release all previously posted or deposited security from any obligations under the posting or depositing and any surety bond so released shall be returned to the surety. Any other security shall be returned to the depositor or the person posting the bond.

Subd. 3. Type of acceptable security. The commissioner may only accept as security, and the commercial self-insurance group shall deposit as security, cash, approved govern-

ment securities as set forth in section 176.181, subdivision 2b, surety bonds or irrevocable letters of credit in any combination in accordance with the requirements under section 79A.04, subdivision 3.

Subd. 4. Custodial accounts. (a) All surety bonds, irrevocable letters of credit, and documents showing issuance of any irrevocable letter of credit shall be deposited in accordance with the provisions of section 79A.071.

(b) Upon the commissioner sending a request to renew, request to post, or request to increase a security deposit, a perfected security interest is created in the commercial self-insurance group's and member's assets in favor of the commissioner to the extent of any then unsecured portion of the commercial self-insurance group's incurred liabilities. The perfected security interest is transferred to any cash or securities thereafter posted by the commercial self-insurance group with the state treasurer and is released only upon either of the following:

(1) the acceptance by the commissioner of a surety bond or irrevocable letter of credit for the full amount of the incurred liabilities for the payment of compensation; or

(2) the return of cash or securities by the commissioner. The commercial self-insurance group loses all right, title, and interest in and any right to control all assets or obligations posted or left on deposit as security. In the event of a declaration of bankruptcy or insolvency by a court of competent jurisdiction, or in the event of the issuance of a certificate of default by the commissioner, the commissioner shall liquidate the deposit as provided in this chapter, and transfer it to the commercial self-insurance group security fund for application to the commercial self-insurance group's incurred liability.

(c) No securities in physical form on deposit with the state treasurer or the commissioner or custodial accounts assigned to the state shall be released or exchanged without an order from the commissioner. No security can be exchanged more than once every 90 days.

(d) Any securities deposited with the state treasurer or with a custodial account assigned to the state treasurer or letters of credit or surety bonds held by the commissioner may be exchanged or replaced by the depositor with any other acceptable securities or letters of credit or surety bond of like amount so long as the market value of the securities or amount of the surety bonds or letter of credit equals or exceeds the amount of the deposit required. If securities are replaced by surety bond, the commercial self-insurance group must maintain securities on deposit in an amount sufficient to meet all outstanding workers' compensation liability arising during the period covered by the deposit of the replaced securities.

(e) The commissioner shall return on an annual basis to the commercial self-insurance group all amounts of security determined by the commissioner to be in excess of the statutory requirements for the group to self-insure, including that necessary for administrative costs, legal fees, and the payment of any future workers' compensation claims.

History: 1995 c 231 art 2 s 33

79A.25 DEFAULT OF A COMMERCIAL SELF-INSURANCE GROUP.

Subdivision 1. Notice of insolvency, bankruptcy, or default. The commissioner of labor and industry shall notify the commissioner and the commercial self-insurance group security fund if the commissioner of labor and industry has knowledge that any commercial self-insurance group has failed to pay workers' compensation benefits as required by chapter 176. If the commissioner determines that a court of competent jurisdiction has declared the commercial self-insurance group to be bankrupt or insolvent and the commercial self-insurance group has failed to pay workers' compensation as required by chapter 176 or if the commissioner issues a certificate of default against a commercial self-insurance group for failure to pay workers' compensation as required by chapter 176, then the security deposit posted by the commercial self-insurance group shall be utilized to administer and pay the commercial self-insurance group's workers' compensation obligation.

Subd. 2. Revocation of certificate to self-insure. (a) The commissioner shall revoke the commercial self-insurance group's certificate to self-insure once notified of the commercial self-insurance group's bankruptcy, insolvency, or upon issuance of a certificate of default. The revocation shall be completed as soon as practicable, but no later than 30 days after the commercial self-insurance group's security has been called.

(b) The commissioner shall also revoke a commercial self-insurance group's authority to self-insure on the following grounds:

- (1) failure to comply with any lawful order of the commissioner;
- (2) failure to comply with any provision of chapter 176;
- (3) a deterioration of the commercial self-insurance group's financial condition affecting its ability to pay obligations in chapter 176;
- (4) committing an unfair or deceptive act or practice as defined in section 72A.20; or
- (5) failure to abide by the plan of operation of the workers' compensation reinsurance association.

Subd. 3. Notice by the commissioner. In the event of bankruptcy, insolvency, or certificate of default, the commissioner shall immediately notify by certified mail the state treasurer, the surety, the issuer of an irrevocable letter of credit, and any custodian of the security. At the time of notification, the commissioner shall also call the security and transfer and assign it to the commercial self-insurance group security fund. The commissioner shall also notify by certified mail the commercial self-insurance group's security fund and order the commercial security fund to assume the insolvent commercial self-insurance group's obligations for which it is liable under chapter 176.

History: 1995 c 231 art 2 s 34

79A.26 COMMERCIAL SELF-INSURANCE GROUP SECURITY FUND.

Subdivision 1. Creation. The commercial self-insurance group security fund is established as a nonprofit corporation pursuant to the Minnesota nonprofit corporation act, sections 317A.001 to 317A.909. If any provision of the Minnesota nonprofit corporation act conflicts with any provision of this chapter, the provisions of this chapter apply. Each commercial self-insurance group that elects to be subject to the terms of sections 79A.19 to 79A.32 rather than sections 79A.01 to 79A.18 shall participate in the commercial self-insurance group security fund. This participation shall be a condition of maintaining its certificate to self-insure.

Subd. 2. Board of trustees. The commercial security fund shall be governed by a board consisting of a minimum of three and maximum of five trustees. The trustees shall be representatives of commercial self-insurance groups who shall be elected by the participants of the commercial security fund, each group having one vote. The trustees initially elected by the participants shall serve staggered terms of either two or three years. Thereafter, trustees shall be elected to three-year terms and shall serve until their successors are elected and assume office pursuant to the bylaws of the commercial security fund. Two additional trustees shall be appointed by the commissioner. These trustees shall serve four-year terms. One of these trustees shall serve a two-year term. Thereafter, the trustees shall be appointed to four-year terms, and shall serve until their successors are appointed and assume office according to the bylaws of the commercial security fund. In addition to the trustees elected by the participants or appointed by the commissioner, the commissioner of labor and industry or the commissioner's designee shall be an ex officio, nonvoting member of the board of trustees. A member of the board of trustees may designate another person to act in the member's place as though the member were acting and the designee's actions shall be deemed those of the member.

Subd. 3. Bylaws. The commercial security fund shall establish bylaws and a plan of operation, subject to the prior approval of the commissioner, necessary to the purposes of this chapter and to carry out the responsibilities of the commercial security fund. The commercial security fund may carry out its responsibilities directly or by contract, and may purchase services and insurance and borrow funds it deems necessary for the protection of the commercial self-insurance group participants and their employees.

Subd. 4. Confidential information. The commercial security fund may receive private data concerning the financial condition of commercial self-insurance groups whose liabilities to pay compensation have become its responsibility and shall adopt bylaws to prevent dissemination of that information.

Subd. 5. Employees. Commercial security fund employees are not state employees and are not subject to any state civil service regulations.

Subd. 6. Assumption of obligations. Upon order of the commissioner under section 79A.25, subdivision 3, the commercial security fund shall assume the workers' compensation obligations of an insolvent commercial self-insurance group. The commissioner shall further order the commercial self-insurance group security fund to commence payment of these obligations within 14 days of the receipt of this notification and order.

Subd. 7. Act or omissions; penalties. Notwithstanding subdivision 6, the commercial security fund shall not be liable for the payment of any penalties assessed for any act or omission on the part of any person other than the commercial security fund or its appointed administrator, including, but not limited to, the penalties provided in chapter 176 unless the commercial security fund or its appointed administrator would be subject to penalties under chapter 176 as the result of the actions of the commercial security fund or its administrator.

Subd. 8. Party in interest. The commercial security fund shall be a party in interest in all proceedings involving compensation claims against an insolvent commercial self-insurance group whose compensation obligations have been paid or assumed by the commercial security fund. The commercial security fund shall have the same rights and defenses as the insolvent commercial self-insurance group, including, but not limited to, all of the following:

- (1) to appear, defend, and appeal claims;
- (2) to receive notice of, investigate, adjust, compromise, settle, and pay claims; and
- (3) to investigate, handle, and deny claims.

Subd. 9. Payments to commercial security fund. Notwithstanding sections 79A.19 to 79A.32 or chapter 176 to the contrary, in the event that the commercial self-insurance group security fund assumes the obligations of any bankrupt or insolvent commercial self-insurance group pursuant to this section, then the proceeds of any surety bond, workers' compensation reinsurance association, specific excess insurance or aggregate excess insurance policy, and any special compensation fund payment or supplementary benefit reimbursements shall be paid to the commercial self-insurance group security fund instead of the bankrupt or insolvent commercial self-insurance group or its successor in interest. No special compensation fund reimbursements shall be made to the commercial security fund unless the special compensation fund assessments under section 176.129 are paid and the required reports are made to the special compensation fund.

Subd. 10. Insolvent commercial self-insurance group. The commercial security fund shall have the right and obligation to obtain reimbursement from an insolvent commercial self-insurance group up to the amount of the commercial self-insurance group's workers' compensation obligations paid and assumed by the commercial security fund, including reasonable administrative and legal costs. This right includes, but is not limited to, a right to claim for wages and other necessities of life advanced to claimants as subrogee of the claimants in any action to collect against the commercial self-insurance group as debtor.

Subd. 11. Security deposits. The commercial security fund shall have the right and obligation to obtain from the security deposit of an insolvent commercial self-insurance group the amount of the commercial self-insurance group's compensation obligations, including reasonable administrative and legal costs, paid or assumed by the commercial security fund. Reimbursement of administrative costs, including legal costs, shall be subject to approval by a majority of the commercial security fund's voting trustees. The commercial security fund shall be a party in interest in any action to obtain the security deposit for the payment of compensation obligations of an insolvent commercial self-insurance group.

Subd. 12. Legal actions. The commercial security fund shall have the right to bring an action against any person or entity to recover compensation paid and liability assumed by the commercial security fund, including, but not limited to, any excess insurance carrier of the insolvent commercial self-insurance group and any person or entity whose negligence or breach of an obligation contributed to any underestimation of the commercial self-insurance group's accrued liability as reported to the commissioner.

Subd. 13. Party in interest. The commercial security fund may be a party in interest in any action brought by any other person seeking damages resulting from the failure of an insolvent commercial self-insurance group to pay workers' compensation required under this subdivision.

Subd. 14. **Assets maintained.** The commercial security fund shall maintain cash, readily marketable securities, or other assets, or a line of credit, approved by the commissioner, sufficient to immediately continue the payment of the compensation obligations of an insolvent commercial self-insurance group pending receipt of the security deposit, surety bond proceeds, irrevocable letter of credit, or, if necessary, assessment of the participants. The commissioner may establish the minimum amount to be maintained by, or immediately available to, the commercial security fund for this purpose.

Subd. 15. **Assessment.** The commercial security fund may assess each of its participants a pro rata share of the funding necessary to carry out its obligation and the purposes of sections 79A.19 to 79A.32. Total annual assessments in any calendar year shall be a percentage of the workers' compensation benefits paid under sections 176.101 and 176.111 during the previous calendar year. The annual assessment calculation shall not include supplementary benefits paid which will be reimbursed by the special compensation fund. Funds obtained by assessments under this subdivision may only be used for the purposes of sections 79A.19 to 79A.32. The trustees shall certify to the commissioner the collection and receipt of all money from assessments, noting any delinquencies. The trustees shall take any action deemed appropriate to collect any delinquent assessments.

Subd. 16. **Audit of fund.** The trustees shall annually contract for an independent certified audit of the financial activities of the fund. An annual report on the financial status of the commercial self-insurance group security fund shall be submitted to the commissioner and to each commercial group participant.

History: 1995 c 231 art 2 s 35

79A.27 INDEMNITY AGREEMENT FORM.

INDIVIDUAL AND PROPORTIONATE INDEMNITY AGREEMENT

WHEREAS, (name of company) has agreed to be and has been accepted as a member of (name of commercial self-insurance group).

WHEREAS, (name of company) has agreed to be bound by all of the provisions of the Minnesota workers' compensation act and all rules promulgated thereunder.

WHEREAS, that (name of company) has agreed to be bound by bylaws or plan of operation and all amendments thereto of (name of commercial self-insurance group);

NOW THEREFORE, IT IS AGREED that:

1. (Name of company) shall be jointly and severally liable for all claims and expenses of all the members of (name of commercial self-insurance group) arising in any fund year in which (name of company) is a member of the commercial self-insurance group.

2. (Name of commercial self-insurance group) shall assess (name of company) on an individual and proportionate basis for its share of the total liability of the commercial self-insurance group.

3. In the event that (name of company) is not a member for the full year, it shall be only liable for a pro rata share of that liability.

IN WITNESS WHEREOF, the (name of company) and (name of commercial self-insurance group) have caused this indemnity agreement to be executed by its authorized officers:

Commercial Self-Insurance Group Name

Company Name

By:
date:

By:
date:

History: 1995 c 231 art 2 s 36

79A.28 OPEN MEETING; ADMINISTRATIVE PROCEDURE ACT.

The commercial self-insurance group security fund and its board of trustees shall not be subject to:

- (1) the open meeting law;
- (2) the open appointments law;
- (3) the data privacy law; and
- (4) except where specifically set forth, the administrative procedure act.

History: 1995 c 231 art 2 s 37

79A.29 RULES.

The commissioner may adopt, amend, and repeal rules reasonably necessary to carry out the purposes of this chapter. Minnesota Rules, chapter 2780, shall apply to commercial self-insurance groups unless otherwise specified by rule.

History: 1995 c 231 art 2 s 38

79A.30 GOVERNING LAW.

If there is any inconsistency between sections 79A.19 to 79A.32 and any other statute or rule, the provisions of sections 79A.19 to 79A.32 shall govern with respect to commercial self-insurance groups.

History: 1995 c 231 art 2 s 39

79A.31 COMMERCIAL SELF-INSURANCE GROUP SECURITY FUND MEMBERSHIP; WITHDRAWAL FROM SELF-INSURERS' SECURITY FUND.

Subdivision 1. Withdrawal. Any group self-insurer that is a member as of August 1, 1995, of the self-insurers' security fund established under section 79A.09, may until January 1, 1996, elect to withdraw from that fund and become a member of the commercial self-insurance group security fund established under section 79A.26. The transferring group shall be subject to the provisions and requirements of sections 79A.19 to 79A.34 as of the date of transfer. Additional security may be required pursuant to section 79A.24. Group self-insurers electing to transfer to the commercial self-insurance group fund shall not be subject to the provisions of section 79A.06, subdivision 5, including, but not limited to, assessments by the self-insurers' security fund.

Subd. 2. Transfer; notice to commissioner. A group self-insurer shall provide to the commissioner written notice of its intent to transfer membership to the commercial self-insurance group security fund. The notice shall be sent at least 30 days prior to the date the group self-insurer requests membership in the commercial self-insurance group security fund.

Subd. 3. Transfer of potential and contingent liabilities. Upon transfer pursuant to subdivision 1, the commercial self-insurance group security fund shall assume all of the past, present, and future potential and contingent workers' compensation liabilities of the transferring group in the event of any bankruptcy or insolvency of that group or its failure to meet its obligations under this chapter and chapter 176.

Subd. 4. Election. A group self-insurer established after August 1, 1995, may elect to become a member of either the self-insurers' security fund or the commercial self-insurance group security fund. However, once the election is made, a group may not transfer to the other security fund.

History: 1995 c 231 art 2 s 40

79A.32 REPORTING TO MINNESOTA WORKERS' COMPENSATION INSURERS' ASSOCIATION.

Subdivision 1. Required activity. Each self-insurer shall perform the following activities:

- (1) maintain membership in and report loss experience data to the Minnesota workers' compensation insurers association, or a licensed data service organization, in accordance with the statistical plan and rules of the organization as approved by the commissioner;
- (2) establish a plan for merit rating which shall be consistently applied to all insureds, provided that members of a data service organization may use merit rating plans developed by that data service organization;

(3) provide an annual report to the commissioner containing the information and prepared in the form required by the commissioner; and

(4) keep a record of the losses paid by the self-insurers and premiums for the group self-insurers.

Subd. 2. Permitted activity. In addition to any other activities not prohibited by this chapter, self-insurers may:

(1) through licensed data service organizations, individually, or with self-insurers commonly owned, managed, or controlled, conduct research and collect statistics to investigate, identify, and classify information relating to causes or prevention of losses;

(2) develop and use classification plans and rates based upon any reasonable factors; and

(3) develop rules for the assignment of risks to classifications.

Subd. 3. Delayed reporting. Private self-insurers established under sections 79A.01 to 79A.18 prior to August 1, 1995, need not begin filing the reports required under subdivision 1 until January 1, 1998.

History: 1995 c 231 art 2 s 41