

230-RICR-20-15-1

TITLE 230 – Department of Business Regulation

CHAPTER 20 – Insurance

SUBCHAPTER 15 – Workers' Compensation

Part 1 – Workers' Compensation Group Self-Insurance

1.1 Authority

This Part is promulgated in accordance with R.I. Gen. Laws Chapter 28-47.

1.2 Purpose

The purpose of this Part is to establish procedures to be followed for groups that want to self-insure workers' compensation risk.

1.3 Application Procedure

- A. Employers seeking approval to become a group self-insurer pursuant to R.I. Gen. Laws §§ 28-47-1 *et seq.* shall apply to the Department of Business Regulation ("Department"). The application shall be on a form prescribed by the Department and shall contain answers to all questions. The application shall be filed with the Department not less than thirty (30) days prior to the proposed inception date of the group self-insurance plan.
- B. After considering the application and all supporting data, the Department will either grant approval or advise the applicants of the requirements to be met before approval is granted. The applicants shall be given thirty (30) days from the receipt of notice in which to comply with such requirements. Authority to operate the group self-insurer will not become effective until there is proof that all requirements for approval have been met.
- C. The applicants may, at the discretion of the Department, be granted additional time to meet the requirements for approval of the application. A request for extension of time shall be made in writing by the applicants to the Department within the initial thirty (30) day compliance period.
- D. Upon meeting the requirements for approval, the applicants shall receive a formal certificate approving the group self-insurer. The certificate shall expire one (1) year from the effective date of issuance.

- E. The group self-insurer shall submit a renewal application annually, on a form prescribed by the Department, thirty (30) days before expiration of the certificate. Upon receipt of a renewal application, the existing certificate shall be extended until the application is either approved or denied.

1.4 Application Requirements

- A. The application to the Department shall be accompanied by all of the following:
1. a copy of the by-laws of the group self-insurer which shall include the group self-insurer's assessment and dividend policies.
 2. an individual application for membership in the group self-insurer, each member of the group self-insurer applying for coverage as of its inception date;
 3. proof that the current financial statements of each member of the group self-insurer at its inception, when taken collectively, show all of the following:
 - a. that the combined net assets of the members applying for coverage on the inception date are not less than five hundred thousand dollars (\$500,000);
 - b. that they have working capital in an amount establishing the financial strength and liquidity of their businesses when considered collectively;
 4. evidence of the financial ability of the group self-insurer to meet its obligations under the Workers' Compensation Act;
 5. a listing of the estimated annual premium to be developed by each member of the group self-insurer at its inception date;
 6. proof of payment by each member of the group self-insurer at its inception date of not less than twenty five percent (25%) of its estimated annual premium into a designated depository;
 7. confirmation of excess insurance in amounts designated by the Department;
 8. names, addresses, and current business affiliations of the initial board of trustees and the administrator;

9. proof of all fidelity bonds required by the Department in amounts and form acceptable to him;
10. proof of a surety bond or other acceptable security in an amount and form acceptable to the Department;
11. an indemnity agreement in a form acceptable to the Department jointly and severally binding the group self-insurer and each member thereof for all of the obligations of the group incurred during the period of membership;
12. a breakdown of all projected administrative expenses for the year, both in dollar amounts and as percentages of premium;
13. proof, satisfactory to the Department, that the annual gross premiums of the group self-insurer will be not less than two hundred fifty thousand dollars (\$250,000);
14. proof that the group self-insurer has within its own organization ample facilities and competent personnel to service its program with respect to underwriting, industrial safety engineering, claims adjusting, and reporting of loss data or has contracted for the provision of any or all such services.

1.5 Security Deposits

- A. Each group self-insurer shall be required to post a security deposit with the Department in an amount not less than one hundred thousand dollars (\$100,000). The Department may require a greater deposit to secure any potential liability of the group not otherwise funded by a security deposit, premium collections, or excess insurance.
- B. The securities acceptable to the Department as a security deposit shall be:
 1. savings accounts or certificates of deposit in a duly chartered commercial bank located within the State of Rhode Island and insured through the Federal Deposit Insurance Corporation;
 2. share accounts or savings certificates in a duly chartered savings and loan association located within the State of Rhode Island and insured through the Federal Savings and Loan Insurance Incorporation;
 3. direct obligations of the United States Treasury such as notes, bonds, or bills which are backed by the full faith and credit of the United States Government;

4. any bond or security issued by the State of Rhode Island and backed by the full faith and credit of the State;
5. surety bonds in a form approved by the Department issued by a corporate surety admitted in the State of Rhode Island or authorized by the Department to transact such business in the State;
6. a financial guarantee endorsement in a form acceptable to the Department issued as part of an acceptable excess issuance contract.

1.6 Excess Insurance

A. Each group self-insurer shall maintain excess insurance as follows:

1. specific excess insurance with limits of not less than one million dollars (\$1,000,000) per occurrence. Group self-insurers containing businesses with a high risk of multiple injury from a single accident may be required to maintain higher limits. The retention of the required specific excess coverage shall be the retention generally available for group self-insurers with similar exposures and annual premiums;
2. aggregate excess insurance with limits above the aggregate retention level of not less than one million dollars (\$1,000,000) or twenty five percent (25%) of the annual premiums of the group self-insurer for the term of the policy, whichever is greater.

B. No contract or policy of excess insurance shall be considered in fulfillment of the group self-insurer's obligations unless such contract or policy complies with all of the following:

1. it is issued by a casualty insurance company admitted in the State of Rhode Island or authorized to write such business within the State;
2. is not cancellable unless written notice by registered or certified mail is given to the other party to the policy and to the Department not less than sixty (60) days before cancellation, by the party desiring to cancel the policy;
3. is automatically renewable at the expiration of the policy period unless written notice by registered or certified mail is given to the other party to the policy and to the Department not less than sixty (60) days before expiration, by the party desiring to not renew the policy;
4. provides that any commutation effected under a commutation clause contained in the contract or policy shall not relieve the underwriter of

further liability in respect to claims and expenses unknown at the time of such commutation or in regard to claims apparently closed which may subsequently be revived by and through a competent authority and that in the event the underwriter proposes to redeem any future payment payable as compensation for accidents occurring during the term of the policy by the payment of a lump sum to be fixed as provided in the commutation clause of the policy, not less than sixty (60) days prior notice of such commutation shall be given to the Department by certified mail by the underwriter or its agent. In the event any commutation is effected, the Department shall have the right to require that such sum either be placed in trust for the benefit of the injured employee or employees entitled to such future payment of compensation or be invested in an approved security and deposited with the Department to insure such future payment of compensation to the employee or employees entitled thereto;

5. contains the provision that the Department may order that the monies due under the terms of an excess contract or policy be paid directly to the injured employee or such other parties as the Department determines that it is necessary to insure continued benefit to the injured employee.
- C. Copies of the complete policies of excess insurance shall be filed with the Department together with certification that such policies fully comply with these rules and with the Workers' Compensation Law.

1.7 Members - Admission and Termination

- A. After the inception date of the group self-insurer, prospective new members shall submit an application for membership to the board of trustees or its administrator. The trustees or administrator shall approve or deny the application for membership pursuant to the by-laws of the group self-insurer. Membership shall take effect upon approval, and the approved application shall be filed with the Department not more than ten (10) days after approval.
- B. Individual members of the group self-insurer shall be subject to cancellation by the trustees pursuant to the by-laws. Cancellation shall not be effective until at least ten (10) days after notice of such cancellation, on prescribed form, has either been filed in the office of the Department or sent by certified or registered letter, return receipt requested, and also served in the same manner upon the member. A member cancelled for reasons other than nonpayment of premium shall be entitled to a hearing before the trustees prior to cancellation.

1.8 Premiums

- A. The premium collected from each member shall be computed by applying the appropriate manual rates and rules per payroll code classification by an experience modification factor, such rates and modification factor to be those filed by the National Council on Compensation Insurance, Northeast Region and approved by the Department.
- B. In addition to any stock discounts, the trustees of a group self-insurer may offer advance premium discounts to members, subject to the following limitations:
 - 1. For all premium discounts the Department shall be notified in writing of a group self-insurer's intention to offer any premium discounts. Such notice shall be submitted with actuarial and other appropriate supporting documentation.
 - 2. All premium discounts must have the approval of the excess underwriter.
 - 3. For discounts up to fifteen percent (15%); within ten (10) days after the group self-insurer has made or issued a contract or policy at the discounted premium, the group shall notify the Department in writing of this action. Unless this discount is disapproved or additional information is requested by the Department within thirty (30) days after receipt of this notice from the group, the premium discount shall be deemed to be approved.
 - 4. For discounts in excess of fifteen percent (15%); there shall be a waiting period of thirty (30) days from the date that notification is received by the Department before the premium discount becomes effective. This waiting period may be extended for an additional period not to exceed thirty (30) days, if the Department gives written notice to the group within the initial thirty (30) day waiting period. Unless the discount is disapproved or additional information is requested within the waiting period, the premium discount shall be deemed to be approved.
- C. Each member shall pay a deposit premium equal to not less than twenty five percent (25%) of its estimated annual premium and for each and every succeeding month thereafter, shall pay premiums based upon estimated payroll for that month.
- D. Subject to the approval of the Department, the trustees may adopt a premium payment plan or plans other than that set forth above in § 1.8(C) of this Part, but in no event shall the time for payment be greater than as set forth in § 1.8(C) of this Part.

1.9 Trustees - Trustees Responsibilities and Administration Fiscal Agent

- A. To insure stability of the operations of each group self-insurers plan, a board of trustees, elected by the members of the group self-insurer shall be responsible for all operations of the group self-insurer. A trustee shall not be an owner, officer or employee of a business furnishing services to the group self-insurer.
- B. The board of trustees of each group shall take all necessary precautions to safeguard the assets of the group including but not limited to all of the following:
 - 1. designation of an administrator or fiscal agent or both to administer the day-to-day affairs of the group self-insurer. The board of trustees may delegate authority for specific functions to the administrator or fiscal agent including but not limited to such matters as: contracting for services, determining the premium charge to and refunds payable to members, investing surplus monies, and approving applications for membership. All delegated authority shall be specifically defined in the by-laws and/or the written minutes of the trustees' meetings and shall be subject to disapproval by the Department. The Department shall require the administrator or fiscal agent or both, to furnish a fidelity bond with the trustees as obligees in an amount sufficient to protect the plan against the misappropriation or misuse of any monies or securities.
 - 2. the trustees shall retain control of all monies collected or disbursed and shall segregate such monies into a loss fund and a trustees' fund. The amount allocated to the loss fund shall be sufficient to cover payment of the entire aggregate loss fund as defined in the aggregate excess insurance policy. Only disbursements that are credited toward the loss fund, as defined in the aggregate excess insurance policy, will be made from the loss fund. All administrative costs and other disbursements will be made from the trustees' fund. If the trustees contract for the provision of claims services, they shall establish a revolving fund for use by the claims service company, which will be replenished from time to time from the loss fund. The claim service company and its employees shall be covered by a fidelity bond with the trustees as obligees in an amount sufficient to protect all monies placed in such revolving fund;
 - 3. the board of trustees or its fiscal agent or administrator shall not utilize any of the monies collected as premiums for any purpose unrelated to workers' compensation. Further, it shall not borrow any monies from the fund or in the name of the fund without advising of the nature and purpose of the loan and obtaining approval from the Department, nor shall they have the authority to extend credit to individual members for payment of premium.

Trustees' funds and claims funds shall be invested in the following types of investments only:

- a. savings accounts or certificates of deposit in a duly chartered commercial bank located within the State of Rhode Island and insured through the Federal Deposit Insurance Corporation;
 - b. share accounts or savings certificates in a duly chartered savings and loan association located within the State of Rhode Island and insured through the Federal Savings and Loan Insurance Corporation;
 - c. direct obligations of the United States Treasury, such as notes, bonds and bills which are backed by the full faith and credit of the United States;
 - d. any bonds or security issued by the State of Rhode Island and backed by the full faith and credit of the State.
- C. The trustees shall cause to be adopted a set of by-laws to govern the operation of the group self-insurer. Copies of the current by-laws and written policies of the group self-insurer shall be maintained on file with the Department. Any changes in the by-laws or written policies shall be filed with the Department no later than ten (10) days after their taking effect. The Department shall have the right to order the trustees to rescind or revoke any by-law or policy in violation of these rules or the Workers' Compensation Law.

1.10 Reports

- A. Each group self-insurer shall be required to submit the following documents and reports on a continuing basis:
- 1. quarterly status reports which accurately reflect the financial condition of each open fiscal year shall be filed with the Department within thirty (30) days after the close of each fiscal year quarter and signed by the chairman of the board of trustees or the administrator. A fiscal year is considered open as long as one claim from that year remains unsettled. A listing of any and all delinquent accounts and the amount owed shall be furnished to the Department as part of this report;
 - 2. properly classified and audited payrolls for each member shall be submitted to the Department within ninety (90) days after the close of the fiscal year;

3. a verified copy of the minutes of all trustees' meetings shall be submitted to the Department within thirty (30) days of the meeting date;
4. an audited statement of financial condition shall be submitted annually, within ninety (90) days after the close of the group self-insurer fiscal year;
5. summary loss data for the group self-insurer and individual members shall be furnished to the Department upon request.

1.11 Surplus Distributions and Deficits

- A. Any monies for a coverage year in excess of the amount necessary to fulfill all of the group self-insurer's obligations for that year shall be considered surplus that may be declared refundable to members by the trustees at any time. The amount of such declaration shall be a liability of the group self-insurer at the time of the declaration. A distribution of such surplus monies may not be made by the group self-insurer until the date of payment has been agreed to by the trustees, proper notification has been provided to the Department in accordance with § 1.11(C) of this Part, and the requirements of this Section are otherwise complied with.
- B. A group self-insurer may notify the Department of its intention to make a distribution when surplus exists for a given coverage year. However, in no event shall a distribution take place less than twenty-four (24) months after the end of the coverage year, or if a deficit exists for any coverage year that has not been adequately addressed in accordance with § 1.11(D) of this Part. The amount of the distribution must be within the following guidelines:
 1. The amount of the initial distribution may not exceed forty percent (40%) of the recalculated surplus for the coverage year from which the distribution is to be made.
 2. Additional distributions may be made annually thereafter in accordance with the following schedule:
 - a. Second year (36 months after the end of the coverage year); up to thirty-three percent (33%) of the remaining recalculated surplus amount.
 - b. Third year (48 months after the end of the coverage year); up to fifty percent (50%) of the remaining recalculated surplus amount.
 - c. Fourth year and ensuing years (60 months after the end of the coverage year); up to one hundred percent (100%) of the remaining recalculated surplus amount, but only if all claims for that coverage year are closed.

- C. A notification by a group self-insurer to the Department of its intent to distribute any surplus shall be made in writing at least sixty (60) days prior to each desired distribution date. Such notice shall be supported by the following:
1. A supplemental schedule detailing by each coverage year the total surplus position of the group self-insurer, as of the most recent fiscal year-end, both before and after the desired distribution in substantially the same form as included in a bulletin issued for that purpose and available on the Department's website;
 2. An attestation by the group self-insurer's Certified Public Accountant of the information in the schedule and an opinion that the pre-distribution surplus for each coverage year is fairly stated;
 3. A current year-ending balance sheet for the group self-insurer;
 4. A case incurred loss report by coverage year as of the most recent month-end;
 5. A copy of the board of trustees' resolution authorizing the amount and payment date of the distribution; and
 6. A letter from the group self-insurer stating that such distribution will not impair the financial condition of the group self-insurer.
- D. In the event of a surplus deficit for a group self-insurer in any coverage year, the surplus deficit shall be immediately made up from any of the following:
1. unencumbered surplus from any coverage year other than the current year;
 2. assessment of the membership for the coverage year in which the deficit exists, if ordered by the trustees or the Department; or
 3. by such alternative method as the Department may order or approve.
- E. The Department shall be notified in writing of any surplus deficit within fifteen (15) days after it becomes known by the board of trustees or the group self-insurer's administrator, and this notification shall include a plan to resolve the deficit.
- F. Distributions other than those made under the guidelines of this Section will be considered extraordinary, and may only be permitted after a written request, submitted with actuarial support, is approved by the Department. Prior to approving the payment of any extraordinary distribution, the Department shall request and review any information deemed appropriate, and shall determine

that such distribution will not impair the group self-insurer's ability to meet all obligations.

1.12 Contract Services

- A. Any individual, co-partnership or corporation contracting to provide underwriting, industrial safety engineering, claims adjusting and/or data reporting services to a group self-insurer shall register with the Department, on a form prescribed by the Department, not less than ten (10) days prior to the effective date of its contract.
- B. All claims adjusting services provided by or on behalf of a group self-insurer shall be performed by individuals having at least three (3) years experience in workers' compensation claims or subject to the direct supervision of an individual having such experience.
- C. All persons performing industrial safety engineering services for a group self-insurer shall have not less than three (3) years experience in safety engineering.

1.13 Revocation or Termination of Authority

- A. Any of the following shall be considered good cause for revocation or termination of the authority to operate a group self-insurer;
 - 1. failure to comply with any of the rules herein;
 - 2. failure to comply with any order of the Department;
 - 3. failure to comply with any of the provisions of the workers' compensation law with particular reference to those relating to time and method of compensation payments, the furnishing of medical treatment and the filing of accident and compensation reports;
 - 4. failure to pay any assessment or penalty;
 - 5. failure to maintain required reserves, security deposits and excess insurance coverage;
 - 6. failure to maintain proper fiscal control over the plan's assets;
 - 7. failure to provide proper claims adjusting, underwriting, and safety engineering services.
- B. The Department shall give written notice of such revocation or termination to the trustees or administrator. The group self-insurer shall have fifteen (15) days from the date of mailing of the notice to request a hearing on revocation or

termination. Failure to mail a request for hearing within the time prescribed shall result in the revocation or termination becoming effective thirty (30) days after the date of mailing of the original notice. In no event shall revocation or termination become effective prior to the date that a hearing on the question is scheduled.

1.14 Indemnity Agreements

- A. Each group self-insurer member shall enter into an indemnity agreement jointly and severally binding the self-insurer and each member thereof to comply with the provisions of the Rhode Island Workers' Compensation Law.
- B. The indemnity agreement shall conform to the form of the indemnity agreement set forth in a bulletin issued for that purpose and shall contain all its provisions but may also contain other provisions not inconsistent with these rules.

1.15 Severability

If any provision of these rules is held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of the provisions shall remain in full force and effect and shall in no way be affected.

230-RICR-20-15-1

**TITLE 230 - DEPARTMENT OF BUSINESS REGULATION
(INCLUDES THE OFFICE OF THE HEALTH INSURANCE
COMMISSIONER)**

CHAPTER 20 - INSURANCE

SUBCHAPTER 15 - WORKERS COMPENSATION INSURANCE

**PART 1 - Workers Compensation Group Self Insurance (formerly Insurance
Regulation 33) (230-RICR-20-15-1)**

Type of Filing: Amendment

Effective Date: 01/28/2018

Editorial Note: This Part was filed with the Department of State prior to the launch of the Rhode Island Code of Regulations. As a result, this digital copy is presented solely as a reference tool. To obtain a certified copy of this Part, contact the Administrative Records Office at (401) 222-2473.