



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB0512

Introduced 2/4/2009, by Rep. Roger L. Eddy

SYNOPSIS AS INTRODUCED:

215 ILCS 5/107a.05
215 ILCS 5/107a.06
215 ILCS 5/107a.09

Amends the Illinois Insurance Code. In the provisions concerning definitions and interchangeable terms, provides that trustees of a group workers' compensation pool owe the same fiduciary duty to the pool and its members and be held to the same duty of care in the management and administration of the pool as directors of a stock corporation. In the provisions concerning pool administration, sets forth additional disclosure requirements for administrators. Provides that service companies for group workers' compensation pools are subject to supervision and examination in the same manner as the administrators for group workers compensation insurance pools.

LRB096 03566 RPM 13591 b

1 AN ACT concerning insurance.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Insurance Code is amended by
5 changing Sections 107a.05, 107a.06, and 107a.09 as follows:

6 (215 ILCS 5/107a.05)

7 Sec. 107a.05. Definitions and interchangeable terms.

8 (a) Unless otherwise provided, the following definitions
9 shall apply:

10 "Authorized insurer" means an insurer licensed in this
11 State to transact business as described in Clauses (c) and (d)
12 of Class 2 of Section 4 of this Code.

13 "Calendar Quarter" means the 3-month periods ending March
14 31, June 30, September 30, and December 31.

15 "Director" means the Director of Insurance.

16 "Engaged actively in the business" means a bona fide
17 business concern having conducted commerce, trade, or industry
18 in this State for a specified period of time. Any and all
19 records relating to this requirement shall be open to
20 inspection by the Director or his designee during normal
21 business hours.

22 "Gross annual payroll" means payroll for the preceding
23 fiscal year.

1 "Independent actuarial opinion" means an opinion expressed
2 by a member of the American Academy of Actuaries or Casualty
3 Actuarial Society.

4 "Independent CPA" means an independent certified public
5 accountant or independent certified public accounting firm in
6 good standing and licensed to practice by the Department of
7 Professional Regulation.

8 "Pool" means a qualified group workers' compensation pool
9 as authorized by this Article.

10 "Qualified group workers' compensation pool" means a group
11 workers' compensation pool that has received a certificate of
12 authority pursuant to this Article.

13 (b) For purposes of incorporating the provisions of this
14 Code designated in paragraphs (1) and (2) of subsection (a) of
15 Section 107a.04 into this Article, the following terms shall be
16 interchangeable:

17 "Contribution" shall be considered premium.

18 "Pooling agreement" shall be considered a policy of
19 insurance.

20 "Trustees of a group workers' compensation pool" shall be
21 considered as though they were directors of a domestic mutual
22 insurance company and shall owe the same fiduciary duty to the
23 pool and its members and be held to the same duty of care in the
24 management and administration of the pool as directors of a
25 stock corporation.

26 "Members of a group workers compensation pool" or "pool

1 members" shall be considered as though they were shareholders
2 of a domestic mutual insurance company.

3 (Source: P.A. 91-757, eff. 1-1-01.)

4 (215 ILCS 5/107a.06)

5 Sec. 107a.06. Pool administration.

6 (a) An application for Certificate of Authority to
7 establish a pool must include the documentation and information
8 regarding its administrator, pooling agreement, plan of
9 operation, and membership required by this Section.

10 (b) Administrators must disclose all of the following:

11 (1) Biography of the risk manager on forms prescribed
12 by the Director.

13 (2) If a corporation, biographies of all officers and
14 directors.

15 (3) The size of staff and other information, such as
16 the kinds of staff positions, location of administrative
17 offices and the nature of any electronic data processing
18 equipment, if any, available for servicing the pool, to
19 demonstrate that the administrator has the resources to
20 administer the program disclosed pursuant to subsection
21 (d).

22 (4) The most recent financial statement of the
23 administrator. If a publicly held company, a copy of the
24 last 10-K filed with the Securities and Exchange
25 Commission.

1 (5) The compensation contract of the administrator.

2 (6) The bylaws of the pool and articles of
3 incorporation, if any.

4 (7) Any agreement that subcontracts any of the
5 administrator's duties or responsibilities.

6 (c) A pooling agreement must contain all of the following:

7 (1) A description of the services to be provided by the
8 administrator.

9 (2) The manner in which costs are to be apportioned by
10 the administrator.

11 (3) The initial premium deposit.

12 (4) The assessment provision.

13 (5) The termination provisions and minimum term of
14 membership, which minimum term of membership shall not be
15 less than one year.

16 (6) The duration of liability for additional
17 assessments following termination of membership, which
18 shall be for a period of not less than 3 years.

19 (7) The prerequisites for membership.

20 (8) A provision stating that a claim shall be paid by
21 the pool, regardless of the size of the claim, and that the
22 pool shall be reimbursed by the employer for any amounts
23 required to be paid by the employer under the agreement.

24 (9) A provision stating that the terms of termination
25 after the first year of pool membership shall be dictated
26 by the pooling agreement.

1 (10) If a pooling agreement requires a member to submit
2 written notice in order for the member to withdraw from a
3 qualified pool, then the period in which the member must
4 provide the written notice cannot be greater than 90 days.

5 (11) A provision stating that the administrator acts as
6 a fiduciary of pool members with regard to performing the
7 administration duties and responsibilities,
8 notwithstanding any contractual agreements to the
9 contrary.

10 (12) A provision stating that any service providers
11 performing any of the administrator's duties or
12 responsibilities under subcontract act as agents and
13 fiduciaries of pool members with regard to the provision of
14 any such services, notwithstanding any other agreements of
15 such service provider to the contrary.

16 (13) A provision stating that the Trustees of the Pool
17 act as trustees for the benefit of pool members and
18 fiduciaries with regard to the provision of any such
19 services.

20 (d) Plans of operation must disclose all of the following:

21 (1) A listing of initial members.

22 (2) The aggregate loss history of initial members for
23 each of the last 3 years.

24 (3) The amount of the net retention of the pool and a
25 list of reinsurers.

26 (4) The names of all entities that will provide

1 services for the pool and copies of proposed contracts in
2 connection those services.

3 (5) The safety and loss control programs to be provided
4 or required.

5 (e) The application must contain information about initial
6 members specified on forms prescribed by the Director.

7 (f) The application must contain the combined loss
8 experience for the group for the last 3 years and any other
9 financial data required by the Director.

10 (g) A pool administrator's original books and records
11 relating to the operations of the pool shall at all times be
12 located within the State of Illinois.

13 (h) Any change of the pooling agreement, bylaws, plan of
14 operation, reinsurance agreements, or membership shall be
15 delivered to the Director within 30 days after the amendment or
16 change.

17 (i) A pool trustee must be an employee, officer, director,
18 or owner of a pool member.

19 (Source: P.A. 91-757, eff. 1-1-01.)

20 (215 ILCS 5/107a.09)

21 Sec. 107a.09. Service companies for group workers'
22 compensation pools.

23 (a) No association, corporation, partnership, sole
24 proprietorship, trust, or other business entity shall provide
25 services in the design, establishment, or administration of a

1 group workers' compensation pool unless it is licensed to do so
2 by the Department. An applicant for a license shall state in
3 writing the type of activities it seeks authorization to engage
4 in and the type of services it seeks authorization to provide.
5 The license shall be granted only when the Director is
6 satisfied that the entity possesses the necessary
7 organization, background, character, expertise, and financial
8 integrity to supply the services sought to be offered. The
9 Department may issue a license subject to restrictions or
10 limitations, including restrictions or limitations on the type
11 of services that may be supplied or the activities in which the
12 entity may engage. A license issued under this Section shall be
13 valid for 2 years.

14 (b) To assure that administrators are financially solvent,
15 that pools are administered in a fair and capable fashion, and
16 that administrators are able to process claims and pay benefits
17 in a prompt, fair, and equitable manner, entities licensed to
18 engage in those activities under this Section are subject to
19 supervision and examination by the Department. Entities
20 licensed to engage in the activities set forth in subsection
21 (a) of this Section are subject to supervision and examination
22 in the same manner as the administrators for group workers
23 compensation insurance pools.

24 (c) The Department may adopt rules for the purposes of this
25 Article. The rules shall (i) establish reporting requirements
26 for administrators for group workers' compensation pools,

1 including experience reporting requirements consistent with
2 those established under this Code for insurers; (ii) establish
3 bonding requirements or other provisions assuring the
4 financial integrity of entities administering group
5 self-insurance; and (iii) establish other reasonable
6 requirements to further the purposes of this Article.

7 (Source: P.A. 91-757, eff. 1-1-01.)