

**RULES AND REGULATIONS OF  
THE INSURANCE COMMISSIONER**

**CHAPTER 120-2  
RULES OF COMMISSIONER OF INSURANCE**

**SUBJECT 120-2-34**

**GROUP SELF-INSURANCE FUNDS**

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Rule 120-2-34-.01 Authority

This Regulation is made and promulgated by the Commissioner of Insurance pursuant to the authority set forth in O.C.G.A. Section 34-9-174.

Rule 120-2-34-.02 Purpose

- (1) To provide for the establishment and regulation of Group Self- Insurance Funds by which Workers' Compensation Insurance benefits may be provided for employees of certain qualified associations or groups.
- (2) To protect the interests of the members of a Fund and those employees thereof that are provided Workers' Compensation benefits thereunder.

Rule 120-2-34-.03 Definitions

All terms defined in O.C.G.A. § 34-9-150et seq., hereinafter referred to as the "Group Self-Insurance Funds Act" or "Act", which are used in this Regulation shall have the same meaning as in the Act.

Rule 120-2-34-.04 Notice of Intent to Form a Fund

- (1) At least thirty (30) days prior to forming a Group Self-Insurance Fund or signing the Intrastate Agreement, applicants shall first file with the Commissioner a "Notice of Intent to Form a Self- Insured Fund," referred to as form GSF-IN. The GSF-IN shall comply with O.C.G.A. § 34-9-151.1 and must contain:
  - (a) The name of the group forming the Fund;
  - (b) The name of the proposed administrator;
  - (c) The type or types of employers to be offered membership into the Fund;
  - (d) A statement that the group is knowledgeable of and will comply with the requirements of Article 5 of Chapter 9 of Title 34 of the Official Code of Georgia Annotated and this regulation; and
  - (e) A copy of the intrastate agreement that will be used to establish the Fund.

- (2) The Commissioner shall have thirty (30) days to review the "Notice of Intent to Form a Self-Insured Fund" and shall render a decision to accept or reject the proposed Fund within thirty (30) days of filing. If the Commissioner approves the Notice or does not respond within a thirty (30) day period, the filing is deemed accepted and the Fund may begin recruiting new members and may file an application for a Certificate of Authority. Approval of the Notice does not equate to approval of an application for issuance of a Certificate of Authority.

#### Rule 120-2-34-.05 Application for Certificate of Authority

Each application for an original Certificate of Authority shall be made on Form GID-261-RS, entitled "Application for Certificate of Authority for Group Self-Insurance Fund." The application must be accompanied by all stipulated documents including, but not limited to: GID-261-RS, GID-265-RS, GID-266-RS, GID-267-RS and GID-271-RS as well as the required, non-refundable filing fee specified in O.C.G.A. § 33-8-1 and adhere to the following conditions:

- (a) Conditional on acceptance of the Fund under previous section.
- (b) The Commissioner's decision on "Notice of Intent" is not binding on the "Certificate of Authority."
- (c) The application must be submitted within ninety (90) days of the first signed intrastate agreement.
- (d) If the application is not filed within six (6) months of the acceptance of the "Notice of Intent," the Commissioner's acceptance of the "Notice of Intent" is withdrawn.
- (e) The Commissioner has ninety (90) days, from the date the application is received, to accept or reject the application.
- (f) No application for a Certificate of Authority shall be deemed complete until all information requested, whether of any member, trustee, or administrator of the Fund, or of the Fund itself, is provided to the Commissioner.

#### Rule 120-2-34-.06 Renewal of Certificate of Authority

Each application for renewal of a Certificate of Authority shall be made on or before the first day of March of each year on Form GID-254-RS entitled "Application for Renewal of Certificate of Authority for Group Self-Insurance Fund." It shall be accompanied by all stipulated documents listed on the GID-382-NT, including the annual statement, and a renewal fee as specified in O.C.G.A. § 33-8-1(1)(CC). The Certificate of Authority issued pursuant to this chapter shall continue in full force and effect until specifically refused or revoked by the Commissioner in accordance with O.C.G.A. § 34-9-169.

#### Rule 120-2-34-.07 Application for Membership to a Fund

- (1) Each application for a Certificate of Authority shall be accompanied, for each member of the Fund, by a separate Form GID-263-RS or a comparable form containing the same information as the GID-263-RS, entitled "Application for Membership in Group Self-Insurance Fund."
- (2) After the Fund has been granted a Certificate of Authority, it may add new members in the following manner:

- (a) By submitting underwriting criteria to the Department in accordance with O.C.G.A. § 34-9-155 and having the criteria approved by the Department; or
  - (b) By obtaining a Form GID-263-RS within ten (10) business days of the effective date of coverage; and
  - (c) Submit Form GID-263-RS.
- (3) Any new member application submitted on or after the proposed effective date of coverage will automatically be rejected for lack of timely submission.

#### Rule 120-2-34-.08 Termination of Membership

- (1) A Fund may submit Termination Criteria to the Commissioner for approval. The criteria should stipulate reasons for terminating the relationship between the Fund and the member including, but not limited to, non-payment of premium, claims experience, and failure to report claims.
- (2) A member electing to terminate its participation in the Fund shall submit to the Fund and to the Commissioner a Form GID-264-RS entitled "Application for Termination of Membership in Group Self-Insurance Fund" at least ninety (90) days prior to the requested date of termination. If the Fund has an approved Termination Criteria in place, the member may submit written notice terminating its participation in accordance with those criteria.
- (3) As a prerequisite to approval of termination of membership in the Fund, a member must demonstrate to the Commissioner, that it will, after termination, provide proof of coverage as required under the Act.
- (4) Except where Termination Criteria has been approved, within ten (10) days of receipt of the application for termination of membership, the Fund shall notify the Commissioner of the applicant's current standing and state any reasons why the application should not be approved.

#### Rule 120-2-34-.09 Application to Serve as Officer, Director, or Trustee

Each prospective officer, director or trustee of a Fund shall submit to the Fund and to the Commissioner a Form GID-265-RS, entitled "Application to Serve as Officer, Director or Trustee of Group Self-Insurance Fund".

#### Rule 120-2-34-.10 Application to Serve as Administrator

Each prospective administrator of a Fund shall submit to the Fund and to the Commissioner a Form GID-266-RS, entitled "Application to Serve as Administrator of Group Self-Insurance Fund".

#### Rule 120-2-34-.11 Execution of Intrastate Agreement

The following requirements must be met for the Intrastate Agreement to be properly executed:

- (a) The member must sign the signature page, or resolution if a government entity, certifying that:
  - (1) The member subscribes to and abides by the Intrastate Agreement: the entire document does not have to be signed;
  - (2) The member has received a copy of the Intrastate Agreement;
  - (3) The member is aware of joint and several liability.

- (b) A copy of the signed Intrastate Agreement shall be provided to the member.
- (c) After approval by the Commissioner, amendments to the Intrastate Agreement only become effective after providing written notice to all members.

#### Rule 120-2-34-.12 Request for Additional Information

- (1) The Commissioner may, in connection with any filing required by §120-2-34, submit a written request to the Fund within thirty (30) days of receipt for additional information needed to complete the review of the filing.
- (2) No filing shall be deemed complete until all such requested information is provided to the Commissioner. Absent any further requests, the filing shall be deemed complete.

#### Rule 120-2-34-.13 Financial Reporting: Annual and Quarterly Statements

- (1) On or before the first day of March, each Fund shall file with the Commissioner financial statements on forms approved by the Commissioner. These forms shall relate to the financial condition of the Fund as of December 31st of the preceding calendar year.
- (2) Unless otherwise exempted by the Commissioner, on or before the fifteenth (15) day of May, August and November, each Fund shall file a quarterly statement on forms approved by the Commissioner.
- (3) Only forms approved by the Commissioner will be accepted as financial statements for the Funds. All other forms used will be returned to the Fund.
- (4) Funds operating on a fiscal year, versus a calendar year, shall annually file a financial statement on or before the first day of March and quarterly statements on or before the fifteenth (15th) of May, August, and November. Each statement shall reflect the appropriate complete reporting period of either 3, 6, 9, or 12 months.
- (5) Upon written request from a Fund, and payment of the necessary fee as specified by O.C.G.A. § 33-8-1, the Commissioner may allow for an amended or updated filing of an annual or quarterly statement and such statement shall then be substituted for the original filing.
- (6) Pursuant to O.C.G.A. § 33-8-1(6)(W), a per day late fee will apply to late filings.

#### Rule 120-2-34-.14 Books and Records: Examination

- (1) The Commissioner or his representative may, upon good cause and prior notification to the Fund, either before granting a Certificate of Authority or at any time thereafter, examine the Fund for no more than the most recent five (5) years. The examination will include all affairs that relate to the business of operating a Fund. All fund-related accounts, books, publications, records and vouchers shall be held for a term of at least five (5) years and maintained at the principal address shown on its Certificate of Authority. All materials pertaining to an active claim for which benefits are being paid shall be maintained until the claim is settled or otherwise terminated and then held for one year after the file is closed or until such file has been subject to an Insurance Department examination, whichever period is longer.
- (2) The Commissioner or his representative shall have free access to all fund-related accounts, records, books, publications, and vouchers. The administrators, officers, trustees, employees, and representatives of the Fund shall aid the Commissioner or his representative, as far as it is in their power, in making the examination.

- (3) If, at any time, the Commissioner finds the records or accounts to be inadequate or incorrectly kept or posted, he may employ experts to rewrite, post or balance such records at the expense of the Fund being examined if the Fund has failed to correct such records or accounts within sixty (60) days after the Commissioner has given it notice to do so.
- (4) The costs of any examination performed by the Commissioner, or his designated representative under this section, shall be borne by the Fund being examined, in accordance with O.C.G.A. § 33-2-15.
- (5) The examination report shall be processed in accordance with O.C.G.A. § 33-2-14.

#### Rule 120-2-34-.15 Security Deposit

- (1) Each Fund granted a Certificate of Authority by the Commissioner shall be required to establish and maintain a security deposit as set forth in O.C.G.A. § 34-9-161.
- (2) Any surety bond pledged as security deposit must be on a Form GID-267-RS.
- (3) When a security deposit is pledged in cash or eligible securities, the agreement with the bank or institution must be reviewed and approved by the Commissioner prior to the pledge of the security deposit.
- (4) In the event the security deposit must be liquidated, the power to sell and assign the securities, savings share certificate, or certificate of deposit pledged to the Commissioner require the completion of Form GID-269-RS or GID-270-RS.

#### Rule 120-2-34-.16 Specific and Aggregate Excess Insurance Program

- (1) The Fund shall maintain a specific and aggregate excess loss funding program acceptable to the Commissioner.
- (2) A Fund shall submit a plan for funding excess losses which, in the opinion of the Commissioner, provides for stability and protection to the Fund members. Any subsequent changes relating to coverages, terms and/or conditions of coverage, including loss fund and retention level, shall be submitted to the Commissioner for approval shall be submitted thirty (30) days prior to their expected use. The Commissioner shall approve or disapprove submitted plans within thirty (30) days of receipt. If the Commissioner fails to approve or disapprove such plan within thirty (30) days, a Fund may use such plan. However, the Commissioner may require a Fund to resubmit the Fund's excess loss funding plan upon written request to the Fund or the Fund's administrator of record. Upon request, a Fund shall resubmit their excess loss funding program to the Commissioner for approval.
- (3) The Fund may submit a plan which has been developed or reviewed by an actuary who is a Member of the Casualty Actuarial Society and a Member of the American Academy of Actuaries. Plans developed or reviewed by actuaries may utilize alternative funding techniques including pledging of a Fund's unobligated surplus, spread loss programs or other programs which, in the opinion of the actuary, shall not unduly jeopardize the Fund's stability.
- (4) Any plan submitted by a Fund to the Commissioner for approval of an excess loss funding program which is not supported by detailed actuarial analysis by an actuary who is a Member of the Casualty Actuarial Society and a Member of the American Academy of Actuaries shall include:

- (a) Specific Excess insurance with minimum coverage limits of \$2,000,000 per occurrence or in such greater limits as may be required by the Commissioner in order to assure stability of the Fund; and,
  - (b) Aggregate Excess Insurance with minimum annual aggregate coverage limits of \$1,000,000 or such greater limits as may be required by the Commissioner; and,
  - (c) An attachment point for the Specific Excess Insurance of no greater than \$350,000 per occurrence. A Fund may apply for such higher attachment points that, in the opinion of the Commissioner, will not unduly jeopardize the Fund's stability. If a higher attachment point is requested, the application shall be made 30 days in advance of the intended change but does not mandate that such change be effectuated. And,
  - (d) An attachment point for the Aggregate Excess Insurance no greater than the Fund's normal annual premium plus investment income less the Fund's administrative expenses. A Fund may apply for a higher attachment point for the Aggregate Excess Insurance that, in the opinion of the Commissioner, will not unduly jeopardize the Fund's stability. If a higher attachment point is requested, the application shall be made 30 days in advance of the intended change but does not mandate that such change be effectuated.
- (5) Any policy of insurance written for the benefit of a Fund in accordance with this rule shall contain the following:
- (a) A provision that cancellation or termination of the policy is not effective except upon sixty (60) days written notice by certified or registered mail to the Fund and to the Commissioner; and,
  - (b) A provision that the policy shall be automatically renewed at the expiration of the policy period except upon sixty (60) days by written certified or registered mail to the Fund and to the Commissioner; and,
  - (c) A statement by the aggregate excess insurer that the excess insurance coverage limits and retention are not subject to any side agreements or the increases or decreases other than as set forth in the Fund's application for approval of their excess loss funding program; and,
  - (d) A statement that the policy does not exclude or restrict coverages due to the insolvency or bankruptcy of the Fund or any of its members.
  - (e) Such policy shall not contain any restrictions which would relieve the insurer of its duties and liabilities due to any administrative action taken by the Commissioner.

Rule 120-2-34-.17 Administrator's Bond and Errors and Omissions Coverage

- (1) Each administrator shall have and maintain a fidelity bond in the amount of at least \$100,000, as required by Rule 120-2-49-.07, on Form GID-268-RS.
- (2) Each administrator shall have and maintain errors and omissions coverage or other appropriate liability insurance, written by an insurer authorized to transact insurance in this State, in an amount of at least \$100,000.
- (3) Any policy written in accordance with paragraph (2) of this Rule shall be for a term of at least one year and shall contain provisions that:
  - (a) cancellation or termination of the policy is not effective except upon sixty (60) days written notice by registered or certified mail;

- (b) the policy is automatically renewable at the expiration of the policy period except upon sixty (60) days written notice of either party; and
  - (c) copies of notices required in subparagraphs (a) and (b) be mailed to the Commissioner by registered or certified mail.
- (4) Upon approval by the Commissioner, bonds or policies may be written by an eligible surplus lines insurer.
  - (5) Compliance by the administrator with paragraphs (1) and (2) of this Rule is a prerequisite to approval of its application by the Commissioner.

#### Rule 120-2-34-.18 Compensation of Administrator or Trustee

- (1) Each administrator, trustee or officer of the Fund, or any employee or agent of any or all of them, shall submit to the Commissioner a copy of any proposed contract entitling him or her to any direct or indirect compensation from the Fund for services performed or sales or purchases made to or for the Fund.
- (2) The Commissioner shall determine whether the compensation is reasonable and equitable under the circumstances and consistent with the provisions of the laws of Georgia and this Regulation. The Commissioner may accept or reject the proposed contract. The trustee, officer or administrator, or any employee or agent of any or all of them, may withdraw his or her proposed contract prior to its effective date.
- (3) Any forms of direct or indirect compensation to a trustee, officer or administrator or to a corporation or firm in which a trustee, officer or administrator is in any way financially interested, other than that provided by this Regulation, O.C.G.A. § 34-9-180(c), or the Bylaws of the Fund, shall be a violation of the trustee, officer or administrator's fiduciary responsibility. In such event, the Commissioner may, in addition, suspend, revoke or refuse to renew the Certificate of Authority of the Fund.

#### Rule 120-2-34-.19 Rates and Premiums

- (1) The Fund shall obtain prior approval of the Commissioner for any proposed rate, rating plan, or rating rule to be used by the Fund to determine premium. The Fund shall make any proposed rate filing with the Commissioner thirty (30) days prior to the proposed effective date. The filing shall include all supporting data to justify the proposed rates or rating plan. The Commissioner may require an actuarial report certifying that the proposed rates are adequate, not excessive nor unfairly discriminatory.
- (2) Each charter and subsequent member of the Fund shall pay yearly premiums as outlined in the Intrastate Agreement or according to a plan approved by the Fund's Board of Trustees and the Commissioner. Payment plans will not be approved if they conflict with the Intrastate Agreement.
- (3) Any rate, rating plan, or rating rule filing shall include a letter from the excess carrier(s) stating they have acknowledged the proposed changes.
- (4) The Fund shall obtain prior approval for any other assessment against any member that falls outside of subsection (1) above. The method used to determine the assessment shall also be submitted.

#### Rule 120-2-34-.20 Reserve Requirement

- (1) The Fund shall maintain loss reserves computed in the same manner and upon the same basis as required by O.C.G.A. § 34-9-163(1) and (2) and shall report these reserves in all financial reports filed with the Commissioner.
- (2) The Annual Report shall include an actuarial opinion specifically stating that carried reserves:
  - (a) meet the requirements of O.C.G.A. § 34-9-163(1) and (2);
  - (b) are computed in accordance with accepted loss reserving standards and principles; and
  - (c) make a reasonable provision for all unpaid loss and loss expense obligations of the Fund under the terms of its agreement.

#### Rule 120-2-34-.21 Dividends

- (1) Dividends may be returned to the members of the Fund pursuant to O.C.G.A. § 34-9-162(d).
- (2) A dividend shall not be paid out of a specific Fund year which would cause the Fund to show an overall negative surplus.

#### Rule 120-2-34-.22 Organization of a Fund

Bona fide members of trade associations and professional associations as well as groups of municipalities, counties, school boards and hospital authorities may extend workers' compensation benefits to their employees through group self-insurance programs, or "Funds". Any Fund may designate a person to act as an agent, pursuant to the Principal and Agent statutes in Chapter 6 of Title 10 of the Official Code of Georgia Annotated, on behalf of such group and assist in the organizational activities of the Fund, or to perform such other duties as are specified by such group.

#### Rule 120-2-34-.23 Penalties

Any Fund administrator failing to comply with the requirements of this Regulation shall be subject to such penalties as prescribed in O.C.G.A. § 34-9-173 or § 34-9-181. Furthermore, if the Commissioner has cause to believe that improper rates, classifications or experience modification factors are used, any Fund administrator will be subject to the penalties and related expenses set forth in O.C.G.A. § 33-9-40.1(c)(1),(2) and (3).

#### Rule 120-2-34-.24 Severability

If any provision of this Regulation or the application thereof to any person or circumstance, is held invalid by a court of competent jurisdiction, the remainder of the Regulation or the applicability of such provision to other persons or circumstances shall not be affected.