

CHAPTER 79

COMPENSATION INSURANCE

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79.211 CERTAIN PREMIUM DETERMINATION PRACTICES.

Subdivision 1. **Certain wages excluded for ratemaking.** The rating association or an insurer shall not include wages paid for a vacation, holiday, or sick leave in the determination of a workers' compensation insurance premium.

An insurer, including the assigned risk plan, shall not include wages paid for work performed in an adjacent state in the determination of a workers' compensation premium if the employer paid a workers' compensation insurance premium to the exclusive state fund of the adjacent state on the wages earned in the adjacent state.

[For text of subds 2 and 3, see M.S.1992]

History: 1993 c 194 s 1

79.251 ADMINISTRATION OF ASSIGNED RISK PLAN.

[For text of subds 1 to 5, see M.S.1992]

Subd. 6. **Agents.** A person licensed under chapter 60K may submit an application for coverage to the assigned risk plan and receive a fee from the assigned risk plan for submitting the application. However, the licensee is not an agent of the assigned risk plan for purposes of state law. All checks or similar instruments submitted in payment of assigned risk plan premiums must be made payable to the assigned risk plan and not the agent.

[For text of subd 7, see M.S.1992]

History: 1993 c 13 art 2 s 4

79.252 ASSIGNED RISK PLAN.

Subdivision 1. **Purpose.** The purpose of the assigned risk plan is to provide workers' compensation coverage to employers rejected by a licensed insurance company pursuant to subdivision 2.

[For text of subds 2 to 5, see M.S.1992]

History: 1993 c 299 s 31

79.255 WORKERS' COMPENSATION INSURANCE; LESSORS OF EMPLOYEES.

[For text of subds 1 to 8, see M.S.1992]

Subd. 9. **Exemption.** A corporation, partnership, sole proprietorship, or other business entity that provides personnel supply arrangements or agreements for the purpose of temporarily supporting or supplementing a client's work force in work situations, such as employee absences, temporary skill shortages, seasonal workloads, and specific functions and projects, may be exempt from the registration requirements of

this section, provided that the arrangements or agreements do not involve the lease-back of the client's employees.

To qualify for an exemption, an applicant must obtain a certificate of exemption from registration from the commissioner. A certificate of exemption shall be issued upon the applicant's filing of a letter with the commissioner stating that the applicant meets all of the requirements for obtaining an exemption. If a corporation, partnership, sole proprietorship, or other business entity operating under the exemption subsequently fails to meet the requirements for the exemption, the corporation, partnership, sole proprietorship, or other business entity must immediately surrender the exemption certificate and register with the commissioner.

History: 1993 c 194 s 2

79.34 CREATION OF REINSURANCE ASSOCIATION.

[For text of subs 1 to 2, see M.S.1992]

Subd. 2a. Deficiency. If the board determines that a distribution of excess surplus resulted in inadequate funds being available to pay claims that arose during the period upon which that distribution was calculated, the board shall determine the amount of the deficiency. The deficiency shall be made up by imposing an assessment rate against self-insured members and policyholders of insurer members. The board shall notify the commissioner of commerce of the amount of the deficiency and recommend an assessment rate. The commissioner shall order an assessment at a rate and for the time period necessary to eliminate the deficiency. The assessment rate shall be applied to the exposure base of self-insured employers and insured employers. The assessment may not be retroactive and applies only prospectively. The assessment may be spread over a period of time that will cause the least financial hardship to employers. All assessments under this subdivision are payable to the association. The commissioner may issue orders necessary to administer this section. The orders are not rules subject to chapter 14.

[For text of subs 3 to 7, see M.S.1992]

History: 1993 c 361 s 5

79.361 POST-1992 DISTRIBUTION OF WORKERS' COMPENSATION REINSURANCE ASSOCIATION SURPLUS.

Subdivision 1. Scope. This section governs the distribution of excess surplus of the workers' compensation reinsurance association declared after January 1, 1993. A distribution of excess surplus is declared on the date the board votes to make a distribution. No distribution of excess surplus other than that provided by this section may be made.

Subd. 2. Self-insured. A self-insurer shall receive a distribution of excess surplus in an amount equal to the self-insurer's share of the premiums paid to the workers' compensation reinsurance association for the period and for each retention layer for which the distribution is made.

Subd. 3. Insured employers. A policyholder, other than a policyholder insured by the assigned risk plan or the state fund mutual insurance company, shall receive a refund of a share of the distribution equal to the policyholder's share of the annual total earned Minnesota workers' compensation insurance premium, as reported to the commissioner of commerce in the most recent annual statements of insurers, including the assigned risk plan and the state fund mutual insurance company.

Subd. 4. Assigned risk plan. A policyholder of the assigned risk plan shall receive a refund of a share of the distribution equal to the policyholder's share of the annual total earned Minnesota workers' compensation insurance premium, as reported to the commissioner of commerce in the most recent annual statements of insurers, including the assigned risk plan and the state fund mutual insurance company.

Subd. 5. State fund mutual insurance company. A policyholder of the state fund mutual insurance company shall receive a refund of a share of the distribution equal

to the policyholder's share of the annual total earned Minnesota workers' compensation insurance premium, as reported to the commissioner of commerce in the most recent annual statements of insurers, including the assigned risk plan and the state fund mutual insurance company.

Subd. 6. Distribution defined. For the purpose of subdivisions 3 to 5, "distribution" means a distribution described in subdivision 1 minus a distribution to self-insurers under subdivision 2.

Subd. 7. Policyholder. For the purpose of this section "policyholder" means a workers' compensation insurance policyholder in the calendar year preceding a declaration of excess surplus by the board of the reinsurance association.

Subd. 8. Information required. Insurers and the workers' compensation insurers rating association of Minnesota must provide the workers' compensation reinsurance association with information necessary to administer and calculate the refunds to policyholders governed by this section within 60 days of a request by the association. For the purpose of this subdivision, "insurer" includes the assigned risk plan.

Subd. 9. Refund due date. Policyholders must receive the refund within 60 days of the day the reinsurance association receives the information required to be provided by subdivision 8.

Subd. 10. Unclaimed refund. Any part of the refund not distributed within one year after the due date of a refund under this section due to the inability to identify or locate policyholders remains with the workers' compensation reinsurance association.

Subd. 11. Costs of distribution. The reinsurance association may pay the actual and reasonable costs of the refunds made under this section from earnings on a declared excess surplus prior to its distribution.

History: 1993 c 361 s 4

79.362 WORKERS' COMPENSATION REINSURANCE ASSOCIATION EXCESS SURPLUS DISTRIBUTION.

An order of the commissioner of the department of labor and industry relating to the distribution of excess surplus of the workers' compensation reinsurance association shall be reviewed by the commissioner of commerce. The commissioner of commerce may amend, approve, or reject an order or issue further orders to accomplish the purposes of section 79.361 and Laws 1993, chapter 361, section 2. The commissioner may not change the amount of the distribution ordered by the commissioner of labor and industry without agreement of the commissioner of labor and industry. An order of the commissioner of commerce under this section is not subject to chapter 14.

History: 1993 c 361 s 6

79.363 DISTRIBUTION OF EXCESS SURPLUS.

The distribution of excess surplus of the workers' compensation reinsurance association is not a distribution of excess premiums to members. Any excess surplus not refunded according to Laws 1993, chapter 361, section 2, must be returned to the association and must not be distributed to its members. Any excess surplus not distributed or refunded according to section 79.361 must be retained by the association and must not be distributed to members.

History: 1993 c 361 s 8

79.371 FUNDS FOR THE STATE FUND MUTUAL INSURANCE COMPANY.

Subdivision 1. Association obligation. The reinsurance association shall, no later than July 1, 1993, make funds available to the state fund mutual insurance company in the amount of \$20,000,000 according to terms and conditions approved by the commissioner. The obligation to make these funds available supersedes any inconsistent requirements of this chapter, the bylaws or plan of operation of the association, or duty or obligation imposed upon the board.

Subd. 2. **Personal liability; excluded.** The members of the board and officers or employees of the association are not liable personally, either jointly or severally, for the obligation created by this section.

Subd. 3. **State and special compensation fund obligation.** The obligation of the state fund mutual to the state of Minnesota pursuant to section 176A.11 and any obligations to the special compensation fund for claims incurred prior to the effective date of the obligation created pursuant to section 79.371 shall be subordinate to that obligation. In the event of the insolvency of the state fund mutual the obligation to the workers' compensation reinsurance association created pursuant to section 79.371 shall be satisfied in full before any payments are made to satisfy the obligations to the state or the special compensation fund.

History: 1993 c 228 s 1

NOTE: This section, as added by Laws 1993, chapter 288, section 1, is repealed effective March 1, 2009. See Laws 1993, chapter 228, section 4.

79.51 RULES.

[For text of subds 1 and 3, see M.S.1992]

Subd. 4. **Advisory committee.** The commissioner shall appoint an advisory committee which shall offer recommendations regarding rulemaking under this section. The advisory committee shall include representatives of insurers, employers, and employees. The advisory committee expires as provided in section 15.059, subdivision 5, except that it shall not expire before June 30, 1995.

History: 1993 c 132 s 1