

## CHAPTER 176A

### INSURANCE FUND

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#### 176A.01 DEFINITIONS.

Subdivision 1. **Application.** For the purposes of sections 176A.01 to 176A.11, the terms defined in this section have the meanings given them.

Subd. 2. **Manager.** "Manager" means the manager of the state fund mutual insurance company.

Subd. 3. **Fund.** "Fund" means the state fund mutual insurance company.

Subd. 4. **Board.** "Board" means the board of directors of the state fund mutual insurance company.

Subd. 5. **Personal injury or injury.** "Personal injury" or "injury" has the meaning given to it in section 176.011, subdivision 16.

**History:** 1983 c 287 art 2 s 1; 1Sp1986 c 3 art 1 s 25; 1988 c 427 s 3

#### 176A.02 CREATION; PURPOSE; ORGANIZATION OF THE FUND.

Subdivision 1. **Fund created.** The fund is created as a nonprofit independent public corporation for the purpose of insuring employers against liability for personal injuries for which their employees may be entitled to benefits under chapter 176. The fund must be organized as a domestic mutual insurance company.

Subd. 2. **Board of directors.** The board of directors consists of seven members and the commissioner of labor and industry and the manager of the fund who shall be ex officio members. Each director shall hold office until a successor is appointed and qualifies. Each director shall represent a policyholder and may be an employee of a policyholder. A policyholder may designate a person to represent them on the board. The initial board of directors shall be appointed by the governor and shall consist of seven members and the commissioner of labor and industry. Each member of the initial board shall be either an employer or employee. If the fund is operational and issuing policies upon the expiration of the terms of the initial board and thereafter, the governor shall appoint every other director until the governor has made four appointments. The remaining three directors shall be chosen by the fund's policyholders. In addition to the commissioner, no more than one member of the board shall be a representative of a governmental entity. At least two members of the board shall represent private, for profit, enterprises. No member of the board may represent or be an employee of an insurance company.

The membership terms shall be as provided in section 15.0575. The membership compensation shall be set by the board.

The board shall annually elect a chair from among its members and other officers it deems necessary for the performance of its duties.

Subd. 2a. **Workers' compensation reinsurance association directors.** Until the obligation owed to the workers' compensation reinsurance association pursuant to section 79.371 has been satisfied, the workers' compensation reinsurance association shall be entitled to designate two persons to represent the workers' compensation reinsurance association on the board of directors.

The workers' compensation reinsurance association's designees shall be appointed to the first-available directorships, which the governor is to appoint, which becomes available after the creation of the obligation authorized by section 79.371.

The workers' compensation reinsurance association's designees shall resign immediately upon satisfaction of the obligation authorized by section 79.371.

**Subd. 3. Fund management.** The management and control of the fund is vested solely in the board.

**Subd. 4. Powers and duties of the board.** The board is vested with full power, authority, and jurisdiction over the fund. The board may perform all acts necessary or convenient in the exercise of any power, authority, or jurisdiction over the fund, either in the administration of the fund or in connection with the insurance business to be carried on by it under the provisions of this chapter, as fully and completely as the governing body of a private insurance carrier to fulfill the objectives and intent of this chapter.

**Subd. 5. Manager.** The fund is under the administrative control of the manager appointed by the board pursuant to section 176A.05.

**Subd. 6. Personal liability, excluded.** The members of the board and officers or employees of the fund are not liable personally, either jointly or severally, for any debt or obligation created or incurred by the fund.

**History:** 1983 c 287 art 2 s 2; 1986 c 444; 1987 c 72 s 2,3; 1993 c 228 s 2

**NOTE:** Subdivision 2a, as added by Laws 1993, chapter 228, section 2, is repealed effective March 1, 2009. Laws 1993, chapter 228, section 4

### 176A.03 SPECIFIC POWERS OF THE FUND.

**Subdivision 1. General.** For the purpose of carrying out its function the fund has the powers specified in this section.

**Subd. 2. Insure workers' compensation liability.** The fund may insure an employer against any workers' compensation claim arising out of and in the course of employment, as fully as any other insurer.

**Subd. 3. Coverage outside state.** Policies issued by the fund pursuant to this chapter may also provide workers' compensation coverage required under the laws of states other than Minnesota, including coverages commonly known as "all states coverage." The fund may apply for and obtain any licensure required in any other state in order to issue the coverage.

**History:** 1983 c 287 art 2 s 3; 1992 c 510 art 3 s 31

### 176A.04 GENERAL POWERS.

For the purpose of exercising the specific powers granted in this chapter and effectuating the other purposes of this chapter, the fund:

- (a) may sue and be sued;
- (b) may have a seal and alter it at will;
- (c) may make, amend, and repeal rules relating to the conduct of the business of the fund;
- (d) may enter into contracts relating to the administration of the fund;
- (e) may rent, lease, buy, pledge, mortgage, or sell property in its own name and may construct or repair buildings necessary to provide space for its operations;
- (f) may declare a dividend when there is an excess of assets over liabilities and minimum surplus requirements as consistent with chapter 60A;
- (g) may pay medical expenses, rehabilitation expenses, compensation due claimants of insured employers, pay salaries, and pay administrative and other expenses;
- (h) may hire personnel and set salaries and compensation;

(i) may issue guaranty fund certificates, surplus notes or debentures payable out of surplus, borrow money, and agree to pay any rate of return with respect to any guaranty fund certificate, surplus note, debenture, or other instrument, calculated in any manner, and upon such other terms as the board of directors approve; and

(j) may perform all other functions and exercise all other powers of a domestic mutual insurance company.

**History:** 1983 c 287 art 2 s 4; 1987 c 72 s 4; 1988 c 427 s 1

#### 176A.05 MANAGER.

Subdivision 1. **Appointment, qualifications.** The board shall appoint a manager of the fund who shall be in charge of the day-to-day operation of the fund. The manager shall have proven successful experience as an executive at the general management level. The manager shall receive compensation as set by the board and shall serve at the pleasure of the board.

Subd. 2. **Bond.** Before entering on the duties of the office, the manager shall qualify by giving an official bond in an amount and with sureties approved by the board. The manager shall file the bond with the secretary of state. The premium for the bond shall be paid by the fund from the account established in section 176A.07.

**History:** 1983 c 287 art 2 s 5

#### 176A.06 MANAGER'S POWERS.

Subdivision 1. **General.** Subject to the authority of the board and the provisions of this chapter the manager has the powers and duties prescribed in this section.

Subd. 2. **Safety inspection.** The manager may make safety inspections of risks and furnish advisory services to employers on safety and health measures.

Subd. 3. **Disbursement of funds.** The manager may act for the fund in collecting and disbursing money necessary to administer the fund and conduct the business of the fund.

Subd. 4. **Abstract summary.** The manager shall have an abstract summary of any audit or survey conducted.

Subd. 5. **General authority.** The manager may perform all acts necessary in the exercise of any power, authority, or jurisdiction over the fund, either in the administration of the fund or in connection with the insurance business to be carried on by the fund under this chapter, including the establishment of premium rates.

**History:** 1983 c 287 art 2 s 6

#### 176A.07 ACCOUNT.

Subdivision 1. **State compensation account.** There is created and established under the jurisdiction and control of the fund a revolving account known as the "state compensation account."

The manager shall deliver all money collected or received under this chapter to the account.

The money in the account may be used by the fund in carrying out its purpose under this chapter.

Subd. 2. **Property of fund.** All premiums and other money paid to the fund, all property and securities acquired through the use of money belonging to the fund, and all interest and dividends earned upon money belonging to the fund and deposited or invested by the fund, are the sole property of the fund and shall be used exclusively for the operation and obligations of the fund. The money of the fund is not state money. The property of the fund is not state property.

Subd. 3. **No state appropriation.** The fund shall not receive any state appropriation at any time other than as provided by Laws 1983, chapter 287, article 2, section 11.

**History:** 1983 c 287 art 2 s 7

**176A.08 EXEMPTION FROM AND APPLICABILITY OF CERTAIN LAWS:**

The fund shall not be considered a state agency for any purpose including, but not limited to, chapters 13, 15, 15A, and 43A. However, the fund shall be subject to sections 179A.01. to 179A.25. The insurance operations of the fund are subject to all of the provisions of chapters 60A and 60B. The commissioner of commerce has the same powers, with respect to the board as the commissioner has with respect to a private workers' compensation insurer under chapters 60A and 60B. The fund is considered an insurer for the purposes of chapters 60C, 72A, 79, and 176. The fund is subject to the same tax liability as a mutual insurance company in this state under chapter 297I. As a condition of its authority to transact business in this state the fund shall be a member of the workers' compensation reinsurance association and is bound by its plan of operation.

**History:** 1983 c 287 art 2 s 8; 1983 c 289 s 114 subd 1; 1984 c 462 s 27; 1984 c 655 art 1 s 92; 1987 c 268 art 2 s 29; 1997 c 187 art 3 s 27; 2000 c 394 art 2 s 22

**176A.09 PRIVATE INDEPENDENT INSURANCE AGENTS.**

Private independent insurance agents licensed to sell workers' compensation insurance in this state may sell insurance coverage for the fund according to rules adopted by the board. The board shall by rule also establish a schedule of commissions which the fund will pay for the services of an agent.

**History:** 1983 c 287 art 2 s 9

**176A.10 ANNUAL REPORT.**

The manager shall submit an annual report pursuant to section 3.195 to the governor and legislature indicating the business done by the fund during the previous year and containing a statement of the resources and liabilities of the fund.

**History:** 1983 c 287 art 2 s 10

**176A.11 APPROPRIATION.**

Subdivision 1. **Authorization.** There is appropriated from the general fund to the state fund mutual insurance company a sum of \$125,600 to be available until expended. There is appropriated from the general fund to the commissioner of finance the amounts of \$1,176,900 in fiscal year 1984, and \$4,424,900 in fiscal year 1985, for the purpose of transfer to the state fund mutual insurance company upon certification of need in accordance with procedures developed by the commissioner. If the appropriation for either year is insufficient, the appropriation for the other year is available for it. Any amount appropriated or transferred plus interest at eight percent a year shall be amortized over a ten-year period and shall be repaid by the fund to the general fund in equal installments at the end of each fiscal year with the first payment occurring on June 30, 1986, provided that the fund shall not begin repayment on this date unless there exists sufficient earned surplus to comply with state law. Repayment shall then begin under the terms of this subdivision when sufficient earned surplus exists.

Subd. 2. **Moratorium on payments.** No payments of principal shall be made in regard to the amounts appropriated pursuant to subdivision 1 until all obligations owed to the workers' compensation reinsurance association pursuant to section 79.371 have been satisfied.

Subd. 3. **Insolvency.** In the case of the insolvency of the state fund mutual insurance company, the obligation to the general fund for the amounts appropriated pursuant to subdivision 1 shall be subordinate to the obligations owed to the workers' compensation reinsurance association pursuant to section 79.371. This provision shall not affect the priority of the obligation to the general fund as to any other creditor of the state fund mutual insurance company or in any other way.

**History:** 1983 c 287 art 2 s 11; 1988 c 427 s 3; 1993 c 228 s 3

**NOTE:** Subdivisions 2 and 3, as added by Laws 1993, chapter 228, section 3, are repealed effective March 1, 2009. Laws 1993, chapter 228, section 4.

**176A.12 GUARANTY FUND CERTIFICATES, SURPLUS NOTES OR DEBENTURES.**

Money advanced to the fund in connection with or pursuant to section 176A.11 shall be evidenced by guaranty fund certificates that permit the issuance of other guaranty fund certificates, surplus notes, debentures, or other instruments with equal rights to payment out of surplus of the fund, and in the event of any insufficiency, payments with respect to guaranty certificates may be made pro rata based on outstanding principal amounts of guaranty certificates, surplus notes, debentures, or other instruments with equal rights. Any guaranty fund certificates or other instruments previously issued to evidence any money advanced to the fund in connection with or pursuant to section 176A.11 shall be exchanged by the commissioner of finance for restated certificates in form and substance consistent with section 176A.11 and this section in order to facilitate the issuance by the fund of other guaranty fund certificates, surplus notes, debentures, or other instruments as provided in this section. Any amounts accrued but unpaid pursuant to the terms of any outstanding guaranty certificate, surplus note, debenture, or other instrument shall be deemed to be money advanced for the purposes of this chapter.

**History:** 1988 c 427 s 2