79.102 OWNER- AND CONTRACTOR-CONTROLLED INSURANCE PROGRAMS.

Subdivision 1. **Definitions.** (a) "Project sponsor" means a person who engages the services of a contractor for the purpose of working on a single, specific, and large construction, erection, or demolition project.

(b) "Owner-controlled insurance program" is a single, specific, and large construction, erection, or demolition project for which a series of policies have been issued to a project sponsor and two or more contractors or subcontractors engaged in the project to cover liability for workers' compensation as provided in section 176.181.

(c) "Contractor-controlled insurance program" is a single, specific, and large construction, erection, or demolition project for which a series of policies have been issued to a general contractor or construction manager and two or more contractors or subcontractors engaged in the project to cover liability for workers' compensation as provided in section 176.181.

(d) "Program" means either of the programs under paragraph (b) or (c).

Subd. 2. **Approval.** (a) Owner- and contractor-controlled insurance programs must be approved by the commissioner.

(b) Separate insurance policies must be issued to each eligible entity involved in the program. Separate legal entities may be insured by one insurance policy in the program only if the same person or group of persons own the majority interest in each such legal entity.

Subd. 3. **Application.** (a) The commissioner, upon application of a project sponsor or general contractor, shall approve or disapprove owner- and contractor-controlled insurance programs within 60 days of receipt of a completed application. The commissioner shall grant approval upon a determination that the project sponsor or general contractor has provided all the information that is available at the time of application required in paragraph (b) and that the program meets the following requirements:

(1) the project has an aggregate value in excess of $100,000,000;

(2) the project is a specific construction, erection, or demolition project at a single location or multiple related locations;

(3) the project generates a combined $500,000 or more in annual written workers' compensation premiums in Minnesota for the policies issued to all employers as part of the program;

(4) the project sponsor, contractors, or subcontractors in the program have not been convicted of a crime involving insurance fraud as defined in section 609.611; and

(5) the program's proposed insurer's rates and rating plan for the program have been approved by the commissioner pursuant to section 79.56, subdivision 1, paragraph (a).

(b) A project sponsor or general contractor must provide the following information regarding the project and each individual contractor and subcontractor involved in the program as part of the application to the commissioner:

(1) the name of the proposed insurer;

(2) project location and address;

(3) project sponsor name, address, and telephone number;

(4) addresses and telephone numbers for all contractors and subcontractors in the program;

(5) estimated project duration;

(6) estimated payroll for the project;

(7) estimated number of employees for the project;

(8) classification code or primary business code for the project;

(9) professional or occupational licenses for all contractors in the program;

(10) any professional or occupational license discipline or suspension for all contractors in the program;

(11) any criminal charges or convictions for insurance fraud as defined in section 609.611 of any individuals in the program; and

(12) any bankruptcy or receivership proceedings for any legal entities in the program.

(c) Every three months during the course of a project of an approved program, the project sponsor or general contractor must provide to the commissioner any updates to the application information required by paragraph (b).

(d) The commissioner may share with a licensed data service organization information concerning approved programs. A licensed data service organization must provide upon request to the commissioner any policy issued to an employer involved in an approved program.

(e) An approved program's insurance policies shall provide that upon cancellation of a policy prior to completion of the construction project, the project sponsor or contractor must either replace the insurance or pay the contractor or subcontractor to obtain replacement insurance in an amount equal to the premium paid by the contractor or subcontractor to obtain replacement insurance for the duration of the project.

(f) A project sponsor or general contractor applying for approval of an owner-controlled insurance program or a contractor-controlled insurance program must pay a nonrefundable application fee of $2,500.

Subd. 4. **Exclusion.** No contractor or subcontractor involved in an approved program may have a zero estimated exposure policy as defined in section 176.011, subdivision 19a, for its work on the program's project.

Subd. 5. **Policy forms and rates.** (a) An approved program's insurer must use forms and auditing standards of a licensed data service organization.

(b) An approved program's insurer must use the experience rating plan of a licensed data service organization.

(c) An approved program's policy deductible or retrospective rating plan retention must be no less than $50,000 and no more than $1,000,000. The deductible or retrospective rating plan retention must not be higher than the program's insurer's applicable Workers' Compensation Reinsurance Association retention limit.

(d) To the extent an approved program's insurer deviates from the rates and rating plan approved by the commissioner when determining rates for each employer in the program, the insurer shall submit to the commissioner data and calculations used by the insurer to calculate the deviations within 60 days of the program's policies' effective date.

Subd. 6. **Payroll records.** A project sponsor or general contractor of an approved program must obtain payroll records for the project from all contractors and subcontractors in the program at the time of premium audit. The project sponsor or general contractor shall maintain the payroll records under this subdivision for three years after the date of completion of the project.

Subd. 7. **Notice required.** All contractors and subcontractors participating in an approved program shall be provided with a copy of the insurance policy that covers their employees. The project sponsor, general contractor, or construction manager shall post the notice required by section 176.139, subdivision 1, at all job sites in English and Spanish, including information about how to submit a claim for compensation under the program's policy or policies. Upon request, contractors and subcontractors must furnish this information to an employee covered by the program in a language that the employee understands.

Subd. 8. **Audits.** The commissioner is authorized to conduct audits and investigations under section 45.027 to determine if insurers and approved owner- and contractor-controlled insurance programs are complying with Minnesota law in the issuance of policies described in this section.

History: *2025 c 27 art 2 s 2*