

CHAPTER 165. WORKERS' COMPENSATION SECURITY FUND

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Authority

The provisions of this Chapter 165 issued under sections 205, 506, 1501 and 1502 of The Administrative Code of 1929 (71 P. S. §§ 66, 186, 411 and 412), unless otherwise noted.

Source

The provisions of this Chapter 165 adopted January 3, 2003, effective January 4, 2003, 33 Pa.B. 24, unless otherwise noted.

§ 165.1. Purpose.

The purpose of this chapter is to:

- (1) Establish how contributions are made to the Fund.
- (2) Ensure that a person, entitled to workers' compensation payments from insolvent carriers, will still have a source of funds on which to draw those payments.

§ 165.2. Scope.

This chapter establishes the minimum Fund amount and when contributions are necessary.

§ 165.3. Applicability.

This chapter applies to carriers doing the business of workers' compensation insurance in this Commonwealth.

§ 165.4. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context indicates otherwise:

Act—The Workers Compensation Security Fund Act (77 P. S. §§ 1051—1066).

Carrier—As defined in section 2 of the act (77 P. S. § 1052).

Certificate of authority—As required by section 208 of The Insurance Department Act of 1921 (40 P. S. § 46).

Commissioner—The Insurance Commissioner of the Commonwealth.

Department—The Insurance Department of the Commonwealth.

Fund—As defined in section 2 of the act.

§ 165.5. Administration.

The Fund may secure, using Commonwealth procurement standards:

- (1) A third party administrator to perform claim assessment and handling, and administrative duties and responsibilities.
- (2) Actuarial services to provide an annual liability report and to do the analysis described in § 165.6 (relating to amount of fund) to determine the assessment.

Cross References

This section cited in 31 Pa. Code § 165.7 (relating to assessment).

§ 165.6. Amount of Fund.

- (a) A minimum balance of \$500 million shall be maintained in the Fund.
- (b) If, due to the payment of liabilities or claims, the balance of the Fund is reduced below \$500 million, the Department, in order to return the Fund to the \$500 million level, will require contributions sufficient to fund:
 - (1) The current shortage below \$500 million.
 - (2) Plus the expected payment of liabilities for the next calendar year.
 - (3) Plus expenses to administer the Fund for the next calendar year.
 - (4) Less expected investment earnings on the Fund balance during the next calendar year.

Cross References

This section cited in 31 Pa. Code § 165.5 (relating to administration).

§ 165.7. Assessment.

- (a) The amount of an assessment will be determined by using the actuarial services described in § 165.5 (relating to administration).
- (b) Every carrier, doing the business of workers' compensation insurance in this Commonwealth, will be assessed, based on a prorata share of the total amount of net-written premiums of workers' compensation insurance reported as written in the previous calendar year's annual statement.
- (c) The assessment, when necessary, will be billed by December 31 of the year that the actuarial study is completed. (Example: Data from the 2002 calendar year is used, the actuarial study is completed in 2003, then the assessment will be made by December 31, 2003.)
- (d) Payment of the assessment, when applicable, is due by March 31 of the year following the assessment.

§ 165.8. Failure to comply.

(a) If a carrier fails to file a return, or make any payment required by the act, or in case the Commissioner has cause to believe that a return or other statement filed is false or inaccurate in any particular, or that a payment made is incorrect, the Commissioner has full authority to examine all the books and records of the carrier for the purpose of ascertaining the facts and determine the correct amount to be paid. The Commissioner may proceed in any court of competent jurisdiction to recover for the benefit of the Fund any sums shown to be due upon the examination and determination.

(b) A carrier that fails to make a statement as required by the act, or to pay any contribution when due, thereby forfeits to the Fund a penalty of 5% of the amount of unpaid contribution determined to be due, as provided by the act, plus 1% of the amount for each month of delay or fraction thereof after the expiration of the first month of the delay.

(c) The Commissioner will revoke the certificate of authority to do business in this Commonwealth of a carrier which fails to comply with the act or to pay a penalty imposed in accordance with the act.

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