

STATE OF CONNECTICUT  
REGULATION  
OF

OFFICE OF THE TREASURER  
SECOND INJURY FUND

Concerning  
Second Injury Fund  
Assessment on Employers

The Regulations of Connecticut State Agencies are amended by adding new sections 31-349g- 1 through 31-349g- 9 as follows:

**SECTION 31-349g- 1. (NEW) DEFINITIONS**

As used in sections 31-319g-1 through 31-349g- 9, inclusive:

- (1) "Budget" means projected fiscal year revenues and expenses of the Fund as established pursuant to Section 31-349g- 2 of the Regulations of Connecticut State Agencies.
- (2) "*Custodian of the Fund*" means the Treasurer of the State of Connecticut. "*Fiscal Year*" means the fiscal year of the State of Connecticut which commences on July 1 and ends on the following June 30.
- (3) "Fund" means the Second Injury Fund established and described in chapter 568. part E of the General Statutes.
- (4) "Insured Employer" means an employer that satisfied its workers' compensation obligation by purchasing a workers' compensation and employers liability insurance policy. "Insured Employer" includes members of Interlocal Risk Management Agencies, as defined in sections 7-47a through 7-479i of the general statutes and employer's mutual insurance associations as defined in sections 31-328 through 31-339 of the general statutes.
- (5) "Insurer" means stock and mutual companies authorized to provide workers' compensation and employers liability insurance in accordance with applicable laws of this state. "Insurer" includes Interlocal Risk Management Agencies as defined in sections 7-479a through 7479i of the general statutes and employer's mutual insurance associations as defined in sections 31-328 through 31-339 of the general statutes.
- (6) "Paid Losses" for Insurers means statutory paid losses as reported on page 14, line 16 of the statutory annual statement filed with the insurance commissioner; plus any loss payments within deductible limits on workers' compensation policies; plus any other third party recoveries; less Fund assessments included on page 16, line 16 of the statutory annual statement; less any amount included in direct losses paid but not covered by the Connecticut Workers' Compensation Act, such as payments under the United States Longshore and Harbor Workers' Compensation Act and Employers liability coverage under the workers' compensation and Employers liability policy. For Self-Insured Employers, "paid losses" means the total indemnity and medical expenses paid in accordance with the Connecticut Workers' Compensation Act.
- (7) "Premium Surcharge" means an amount payable by each Insured Employer to satisfy its obligation to the Fund. The premium surcharge shall be equal to the Premium Surcharge Rate multiplied\ by the Insured Employers' Standard Premium.

- (8) "Premium Surcharge Rate" means a factor established by the Custodian of the Fund, which shall be applied to an Insured Employer's workers' compensation policy Standard Premium to determine its Premium Surcharge. The term "Premium Surcharge Rate" includes any such factor established pursuant to subdivision 2 of subsection (b) of section 31-349g- 5 of the regulations of Connecticut State Agencies.
- (9) "Self-Insured Employer" means any employer to whom a certificate of self-insurance has been issued pursuant to Section 31-284 of the General Statutes.
- (10) "Standard Premium means the direct written premium determined for each workers' compensation and employers liability insurance policy on the basis of authorized rates, including expense provisions and applicable rate deviations or average prospective premium credit, applicable experience rating modification and minimum premium. Such direct written premium will be determined without regard to when or whether the premium on the policy is paid. Standard Premium does not include the following items which are considered in calculating the total cost of coverage:
- (a) Expense constant,
  - (b) Premium discount,
  - (c) Modification of individual risk expense provision,
  - (d) Retrospective rating adjustments,
  - (e) Assigned Risk Adjustment Program (ARAP) surcharge,
  - (f) Second Injury Fund Premium Surcharge,
  - (g) Workers' Compensation Commission Funds surcharge,
  - (h) Deductible program credit, and
  - (i) United States Longshore and Harbor Workers' Compensation Act coverages. Direct written premium excludes premium assumed or ceded in a reinsurance transaction. Nothing in the definition of standard premium shall prohibit an insurer from excluding written premium not collectable due to policy cancellation.

**SECTION 31-349g- 2 (NEW)**

**FUND BUDGET**

Commencing May 1, 1996 and on or before May 1 of each year thereafter, the Custodian of the Fund shall establish a budget which shall be an estimate of the revenues and expenses of the Fund for the subsequent fiscal year. The Custodian of the Fund shall consider the financial condition and liabilities of the Fund and shall provide for a contingency reserve in the budget.

**SECTION 31-349g- 3 (NEW)**

**REPORTING OF PAID LOSSES**

On or before April 1, 1996 and annually thereafter, all Insurers and Self-Insured Employers shall report to the Custodian of the Fund, and to the insurance commissioner, Paid Losses for the preceding calendar year in a manner and form prescribed by the Custodian of the Fund.

**SECTION 31-349g- 4 (NEW)**

**APPORTIONMENT OF ASSESSMENTS**

- (a) Commencing on or before May 1, 1996 and annually thereafter, the Custodian of the Fund shall determine from the paid loss data submitted by Insurers and Self-Insured Employers the overall Paid Losses in the Connecticut workers' compensation system for the immediately preceding calendar year.
- (b) The Custodian of the Fund shall calculate the pro rata share of Paid Losses attributable to Insured Employers, in the aggregate, and Self-Insured Employers, in the aggregate, which shall determine the proportion of Budget obligations to be assumed by each such aggregate group of employers.

**SECTION 31-349g- 5 (NEW)**

**CALCULATION OF ASSESSMENTS**

**(a) Self-Insured Employers**

- (1) The pro rata share of Budget obligations attributable to Self-Insured Employers shall be collected through an assessment on all Self-Insured Employers, based on Paid Losses for the preceding calendar year, at a rate and schedule to be determined by the Custodian of the Fund prior to the commencement of the fiscal year.
- (2) In the event the Custodian of the Fund determines there is a material change in the Budget, the Custodian of the Fund may revise the rate and schedule of assessments on Self-Insured Employers as necessary to satisfy the pro rata share of Budget obligations attributable to Self-Insured Employers.

**(b) Insured Employers**

- (1) The pro rata share of Budget obligations attributable to Insured Employers shall be collected through an identifiable Premium Surcharge on all workers' compensation and employers liability insurance policies with an effective date on or after July 1, 1996. On or before May 1, 1996 and on or before May 1 annually thereafter, the Custodian of the Fund shall determine and publish the Premium Surcharge Rate for policies with an effective date during the next Fiscal Year. Such Premium Surcharge Rate shall be based upon the Custodian of the Fund's projection of total Standard Premium for such Fiscal Year. Every Insurer shall provide to the Custodian of the Fund such information as the Custodian of the Fund may request in order to make such a projection. The Premium Surcharge Rate shall be sufficient to generate revenue needed to satisfy the pro rata share of Budget obligations attributable to Insured Employers.
- (2) The Custodian of the Fund may determine and publish a different Premium Surcharge Rate, including an interim Premium Surcharge Rate, based upon information received from the insurance commissioner, for policies of employers in the assigned risk pool which recognizes the assigned risk rate differential approved by the insurance commissioner.
- (3) In the event that the Custodian of the Fund determines there is a material change in the Budget, the Custodian of the Fund may revise the Premium Surcharge Rate as necessary to satisfy the pro rata share of Budget obligations attributable to Insured Employers. The Custodian of the Fund shall determine and publish the revised Premium Surcharge Rate to be effective for policies with an effective date on or after the 60<sup>th</sup> day after such publication.

**(c) Insured Employers That Become Self-Insured**

Any Insured Employer that becomes a Self-Insured Employer shall be assessed based upon Paid Losses paid by it or on its behalf by its former Insurer or any other party during the preceding calendar year.

**SECTION 31-349G- 6 (NEW)**

**COLLECTION AND REMITTANCE OF ASSESSMENTS**

**(a) Self-Insured Employers**

The Custodian of the Fund shall notify each Self-Insured Employer of its pro rata share of any scheduled assessment under subdivision (1) of subsection 31-349g-5 of the regulations of Connecticut State Agencies. Each Self-Insured Employer shall remit such amount to the Custodian of the Fund within thirty (30) days after any such notice.

**(b) Insured Employers**

- (1) Every Insurer shall collect from each of its policyholders, on behalf of the Custodian of the Fund and in accordance with section 31-349g-5 of the regulations of Connecticut State Agencies, the Premium Surcharge, which shall be stated separately on the policy or on a separate document. An insurer may cancel a workers' compensation policy for an employer's non-payment of the Premium Surcharge.
- (2) Each Insurer shall report and remit to the Custodian of the Fund, within forty-five (45) days following the last day of the calendar quarter, an amount equal to (i) the stated Premium Surcharge for all policies with effective date during the quarter, and (ii) the Premium Surcharge due to adjustments made to Standard Premium during the quarter for all policies with an effective date on or after January 1, 1996 and prior to the quarter. The Custodian of the Fund shall prescribe the form to report and remittance.
- (3) For purposes of sections 31-349g-1 through 31-349g-9, Interlocal Risk Management Agencies may remit the Premium Surcharge ratably over the four quarters of the Fiscal Year.
- (4) Standard Premium reported by Insurers shall be final except for adjustments made as a result of payroll audits, classification changes, policy cancellations or other similar adjustments. Adjustments to Premium Surcharge based on any such adjustment to Standard Premium shall be made at the Premium Surcharge Rate in effect for the policy being adjusted.

**SECTION 31-319G- 7 (NEW)**

**AUDIT**

The Custodian of the Fund shall have the right to perform an audit on any Self-Insured Employer, Insured Employer, or Insurer relative to any information or payment required to be provided to the Custodian of the Fund pursuant to sections 31-349g-1 through 31-349g-9.

**SECTION 31-349G- 8 (NEW)**

**PENALTY FOR FAILURE TO PAY ASSESSMENT**

Any employer who fails to pay the amount of any assessment within the time prescribed pursuant to section 31-349g-6 shall pay interest on such deficiency at the rate of fifteen percent per annum from the due date to the payment date.

**SECTION 31-349G- 9 (NEW)**

**INTERIM PREMIUM SURCHARGE**

- (a) An interim Premium Surcharge Rate of fifteen percent on Standard Premium shall apply to all workers' compensation and employers liability policies with an effective date between January 1, 1996 through June 30, 1996. Except those in the assigned risk pool, the rate shall be effective for the full term of the policy.
- (b) The interim premium surcharge rate for the assigned risk pool shall be 13.6% on Standard Premium which shall apply to all workers' compensation and employers liability policies with an effective date between January 1, 1996 through June 30, 1996. In the assigned risk pool, the rate shall be effective for the full term of the policy.
- (c) On or before May 15, 1996 and on or before August 15, 1996, Insurers shall remit to the Custodian of the Fund an amount equal to the stated Premium Surcharge, using the interim Premium Surcharge Rate provided in subsection (a) of this section, on all policies with an effective date during the first and second quarters of calendar year 1996, respectively.

#### **STATEMENT OF PURPOSE**

The regulations satisfy the requirements of Section 14 of Public Act 95-277, which requires the treasurer, in consultation with the insurance commissioner, to adopt regulations regarding the method of assessing all employers for the liabilities of the Fund.