

N-O-T-I-C-E

The Director of the Department of Insurance has scheduled a public hearing as required by the Administrative Procedure Act, Neb.Rev.Stat. § 84-901 to § 84-920 for the following:

Title 210, Nebraska Administrative Code, Chapter 2, Rule on Actuarial Qualifications – REPEAL

Title 210, Nebraska Administrative Code, Chapter 13, Accident and Health Policy Experience Exhibit - REPEAL

Title 210, Nebraska Administrative Code, Chapter 21, Unfair Trade Practice Complaint Register – REPEAL

Title 210, Nebraska Administrative Code, Chapter 23, Credit Transactions; Coercing Insurance; Unfair Trade Practice; Instructions; Penalties. - REPEAL

Title 210 Nebraska Administrative Code Chapter 25, Taxation; Foreign Life or Accident Insurance Companies; Allocation of Premiums Received from Group Policies to Insured's Domiciliary State; Interpretation of Section 77-908. – REPEAL

Title 210, Nebraska Administrative Code, Chapter 47, Group Self-Insurance Rule Implementing the Intergovernmental Risk Management Act. – REVISE

Title 210, Nebraska Administrative Code, Chapter 78, Multiple Employer Welfare Arrangement - REPEAL

Title 210, Nebraska, Administrative Code, Chapter 85, Group Health, Dental; Accident and Life Insurance under the Intergovernmental Risk Management. - REPEAL

Title 210 Nebraska Administrative Code Chapter 86, Regulation to Implement the American Recovery and Reinvestment Act for Purposes of Continuation of Coverage for Small Group Insurance. - REPEAL

The proposed amendments either repeal or strike certain superfluous and repetitive regulations which duplicate or conflict with Nebraska statutes, thereby easing the overall regulatory burden that may be experienced by the public and citizens of Nebraska.

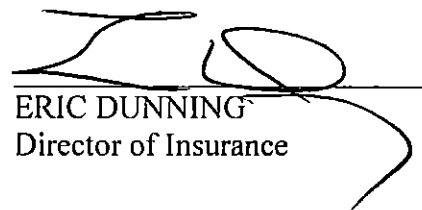
There is no fiscal impact to the Department of Insurance, political subdivisions, or regulated public due to the proposed repeal or amendments as the case may be of Chapters 2, 13, 21, 23, 25, 47, 78, 85, or 86.

Copies of Chapters 2, 13, 21, 23, 25, 47, 78, 85, and 86 are available for public examination at the Department of Insurance, 1526 "K" Street, Ste 200, Lincoln, NE 68509, as well as the Office of the Secretary of State, 1201 "N" Street, Suite 120, Lincoln, NE 68508, the Secretary of State's website at www.sos.ne.gov and through the Department of Insurance's web site at www.doi.nebraska.gov. A copy of the Fiscal Impact Statement is available at the Department of Insurance and at the Department's website www.doi.nebraska.gov. All persons interested in presenting oral or written views on the proposed amendments will be granted an opportunity at a hearing to be held before the Director of Insurance, beginning at **10:00 a.m. on the 10th day of August, 2022**, and will continue until concluded. Said hearing will be held at the Nebraska Department of Insurance, 1526 "K" Street, Ste 200, Lincoln, NE 68509. Interested persons may submit written comment to the Department before the date of the hearing, which will be entered into the record.

Reasonable accommodations will be provided to persons with disabilities upon advanced request. The hearing will be transcribed at the request of any party with the expense of the transcription charged to the requesting party.

All persons interested therein may appear at said time and be heard in reference thereto.

Dated this 27th day of June, 2022.


ERIC DUNNING
Director of Insurance

FISCAL IMPACT STATEMENT

| | |
|---|-------------------------------|
| Agency: Department of Insurance | |
| Title: 210 | Prepared by: Megan VanAusdall |
| Chapter: 02 | Date prepared: March 30, 2022 |
| Subject: Rule on Actuarial Qualifications | Telephone: 402-471-4742 |

Type of Fiscal Impact:

| | State Agency | Political Sub. | Regulated Public |
|-------------------|--------------|----------------|------------------|
| No Fiscal Impact | (X) | (X) | (X) |
| Increased Costs | () | () | () |
| Decreased Costs | () | () | () |
| Increased Revenue | () | () | () |
| Decreased Revenue | () | () | () |
| Indeterminable | () | () | () |

Provide an Estimated Cost & Description of Impact:

State Agency: **N/A**

Political Subdivision: **N/A**

Regulated Public: **N/A**

If indeterminable, explain why: **N/A**

FISCAL IMPACT STATEMENT

| | |
|---|-------------------------------|
| Agency: Department of Insurance | |
| Title: 210 | Prepared by: Megan VanAusdall |
| Chapter: 13 | Date prepared: June 24, 2022 |
| Subject: Accident and Health Policy Experience Exhibit | Telephone: 402-471-4742 |

Type of Fiscal Impact:

| | State Agency | Political Sub. | Regulated Public |
|-------------------|--------------|----------------|------------------|
| No Fiscal Impact | (X) | (X) | (X) |
| Increased Costs | () | () | () |
| Decreased Costs | () | () | () |
| Increased Revenue | () | () | () |
| Decreased Revenue | () | () | () |
| Indeterminable | () | () | () |

Provide an Estimated Cost & Description of Impact:

State Agency: N/A

Political
Subdivision: N/A

Regulated
Public: N/A

If indeterminable, explain why: N/A

FISCAL IMPACT STATEMENT

| | |
|---|-------------------------------|
| Agency: Department of Insurance | |
| Title: 210 | Prepared by: Megan VanAusdall |
| Chapter: 21 | Date prepared: March 30, 2022 |
| Subject: Unfair Trade Practice Complaint Register | Telephone: 402-471-4742 |

Type of Fiscal Impact:

| | State Agency | Political Sub. | Regulated Public |
|-------------------|--------------|----------------|------------------|
| No Fiscal Impact | (X) | (X) | (X) |
| Increased Costs | () | () | () |
| Decreased Costs | () | () | () |
| Increased Revenue | () | () | () |
| Decreased Revenue | () | () | () |
| Indeterminable | () | () | () |

Provide an Estimated Cost & Description of Impact:

State Agency: **N/A**

Political Subdivision: **N/A**

Regulated Public: **N/A**

If indeterminable, explain why: **N/A**

FISCAL IMPACT STATEMENT

| | |
|--|-------------------------------|
| Agency: Department of Insurance | |
| Title: 210 | Prepared by: Megan VanAusdall |
| Chapter: 23 | Date prepared: June 24, 2022 |
| Subject: Credit Transactions; Coercing Insurance; Unfair Trade Practice; Instructions; Penalties | Telephone: 402-471-4742 |

Type of Fiscal Impact:

| | State Agency | Political Sub. | Regulated Public |
|-------------------|--------------|----------------|------------------|
| No Fiscal Impact | (X) | (X) | (X) |
| Increased Costs | () | () | () |
| Decreased Costs | () | () | () |
| Increased Revenue | () | () | () |
| Decreased Revenue | () | () | () |
| Indeterminable | () | () | () |

Provide an Estimated Cost & Description of Impact:

State Agency: N/A

Political
Subdivision: N/A

Regulated
Public: N/A

If indeterminable, explain why: N/A

FISCAL IMPACT STATEMENT

| | |
|---|-------------------------------|
| Agency: Department of Insurance | |
| Title: 210 | Prepared by: Megan VanAusdall |
| Chapter: 47 | Date prepared: June 24, 2022 |
| Subject: Group Self-Insurance Rule Implementing the Intergovernmental Risk Management Act | Telephone: 402-471-4742 |

Type of Fiscal Impact:

| | State Agency | Political Sub. | Regulated Public |
|-------------------|--------------|----------------|------------------|
| No Fiscal Impact | (X) | (X) | (X) |
| Increased Costs | () | () | () |
| Decreased Costs | () | () | () |
| Increased Revenue | () | () | () |
| Decreased Revenue | () | () | () |
| Indeterminable | () | () | () |

Provide an Estimated Cost & Description of Impact:

State Agency: N/A

Political
Subdivision: N/A

Regulated
Public: N/A

If indeterminable, explain why: N/A

FISCAL IMPACT STATEMENT

| | |
|--|-------------------------------|
| Agency: Department of Insurance | |
| Title: 210 | Prepared by: Megan VanAusdall |
| Chapter: 78 | Date prepared: March 30, 2022 |
| Subject: Multiple Employer Welfare Arrangement | Telephone: 402-471-4742 |

Type of Fiscal Impact:

| | State Agency | Political Sub. | Regulated Public |
|-------------------|--------------|----------------|------------------|
| No Fiscal Impact | (X) | (X) | (X) |
| Increased Costs | () | () | () |
| Decreased Costs | () | () | () |
| Increased Revenue | () | () | () |
| Decreased Revenue | () | () | () |
| Indeterminable | () | () | () |

Provide an Estimated Cost & Description of Impact:

State Agency: **N/A**

Political Subdivision: **N/A**

Regulated Public: **N/A**

If indeterminable, explain why: **N/A**

FISCAL IMPACT STATEMENT

| | |
|---|-------------------------------|
| Agency: Department of Insurance | |
| Title: 210 | Prepared by: Megan VanAusdall |
| Chapter: 85 | Date prepared: June 24, 2022 |
| Subject: Group Health, Dental, Accident, and Life Insurance Under the Intergovernmental Risk Management Act | Telephone: 402-471-4742 |

Type of Fiscal Impact:

| | State Agency | Political Sub. | Regulated Public |
|-------------------|--------------|----------------|------------------|
| No Fiscal Impact | (X) | (X) | (X) |
| Increased Costs | () | () | () |
| Decreased Costs | () | () | () |
| Increased Revenue | () | () | () |
| Decreased Revenue | () | () | () |
| Indeterminable | () | () | () |

Provide an Estimated Cost & Description of Impact:

State Agency: N/A

Political
Subdivision: N/A

Regulated
Public: N/A

If indeterminable, explain why: N/A

FISCAL IMPACT STATEMENT

| | |
|--|-------------------------------|
| Agency: Department of Insurance | |
| Title: 210 | Prepared by: Megan VanAusdall |
| Chapter: 86 | Date prepared: June 24, 2022 |
| Subject: Regulation to Implement the American Recovery and Reinvestment Act for Purposes of Continuation of Coverage for Small Group Insurance | Telephone: 402-471-4742 |

Type of Fiscal Impact:

| | State Agency | Political Sub. | Regulated Public |
|-------------------|--------------|----------------|------------------|
| No Fiscal Impact | (X) | (X) | (X) |
| Increased Costs | () | () | () |
| Decreased Costs | () | () | () |
| Increased Revenue | () | () | () |
| Decreased Revenue | () | () | () |
| Indeterminable | () | () | () |

Provide an Estimated Cost & Description of Impact:

State Agency: N/A

Political
Subdivision: N/A

Regulated
Public: N/A

If indeterminable, explain why: N/A

TITLE 210 - NEBRASKA DEPARTMENT OF INSURANCE

Chapter 2 - RULE ON ACTUARIAL QUALIFICATIONS

~~001. Statutory authority. This rule is promulgated under the authority of Neb.Rev.Stat. §44-101.01 R.S. Supp. 1972 and 81-501 R.R.S. 1943.~~

~~002. Purpose. The purpose of this rule is to establish standards for use of the terms "Actuary" or "Actuarial." It is not the purpose of this rule to require any insurer, rate service organization, or other person subject to the insurance code to employ an actuary except as may be otherwise required by statute or other administrative rule.~~

~~003. Scope. This rule shall apply to all reports, statements, and other representations subject to supervision by the Department of Insurance.~~

~~004. Signature as an actuary. No report, statement, or other representation shall be filed with the Director of Insurance or issued to the public, if it is signed by a person who represents himself to be an Actuary, unless such person is a qualified Actuary.~~

~~005. Qualified actuary. For the purpose of this rule, a qualified actuary is:~~

~~005.01 A person who is a member of the American Academy of Actuaries or who has met the examination and experience requirements necessary for such membership; or~~

~~005.02 A person who has applied to and been approved by the Director of Insurance prior to January 1, 1975 as a qualified actuary on the basis of his education and experience and has demonstrated actuarial competence to the satisfaction of the Director.~~

~~006. Level of competency competency. No qualified actuary shall use the term "Actuary" or "Actuarial" in any report, statement, or other representation unless he has complied with the Guides to Professional Conduct of the American Academy of Actuaries.~~

~~007. Penalty. Any financial statement or other report of an insurer which requires the signature of an actuary will not be accepted by the Director of Insurance unless it is signed by a qualified actuary.~~

~~Any other representation by a nonqualified actuary subject to this Rule shall be deemed to violate Article 15 of Chapter 44 of the Nebraska Statutes.~~

Title 210 – Department of Insurance

Chapter 2 (Repealed)

Title 210 - NEBRASKA DEPARTMENT OF INSURANCE

Chapter 13 - ACCIDENT AND HEALTH POLICY EXPERIENCE EXHIBIT

001. Purpose. In view of the recommendation of the Accident and Health Committee of the National Association of insurance Commissioners (NAIC) relative to companies reporting loss experience on all Accident and Health policies adopted at the NAIC 1948 meeting and in view of the necessity of such loss experience being available to the Department of Insurance to determine whether or not individual policies contain "any provision which is unjust, unfair, inequitable, misleading or contrary to the laws of this State" (Section Neb.Rev.Stat. §44-710 Reissue Revised Statutes, 1943), It Is Ruled:

002. Record of loss experience. That all insurance companies transacting accident and health business in the State of Nebraska will maintain a record of loss experience by policy form beginning January 1, 1948 on a premium earned and losses incurred basis or optionally on a premium received and losses paid basis.

003. Loss experience on policy forms. Loss experience will be maintained on all policy forms being currently issued and on policy forms not currently issued from which the renewal premiums represent 5% or more of the total premiums received.

004. Loss experience on total group business. Loss experience will be recorded on total group business written. No separation of loss experience on individual group policies need be maintained.

005. Filing date. The form upon which experience is to be reported will be the exhibit form adopted for the purpose by the NAIC. This exhibit will be filed not later than June 30, 1949 for 1948 experience, and not later than June 30 of every year thereafter.

Title 210 – Department of Insurance

Chapter 13 (Repealed)

Title 210 - NEBRASKA DEPARTMENT OF INSURANCE

Chapter 21 - UNFAIR TRADE PRACTICE COMPLAINT REGISTER

001. Authority. This Regulation is promulgated pursuant to the authority granted by ~~Neb.Rev.Stat. §44-1525~~ Section 4(10) and Section (12) of LB349, Eight-Third Legislature, First Session, 1973, and §44-101.01 R.S. Supp. 1972.

002. Purpose. ~~Section 4 (10) of LB349, Eighty-Third Legislature, First session, 1973~~ ~~Neb.Rev.Stat. §44-1525(10)~~ makes it an unfair trade practice for a person subject to the Act to fail to maintain a record of complaints as specified in such section. The purpose of this Regulation is to prescribe the minimum information required to be maintained in such a record of complaints in order to comply with the statute and to set forth a format for such record which may be used by any person subject to this Regulation.

003. Content of complaint record. Attachment A of this Regulation sets forth the minimum information required to be contained in a person's complaint record in order for it to comply with the statute. Refinements and additions to the information specified therein may, of course, be maintained in such complaint record. Attachment B of this Regulation contains an explanation of the various headings, codes and other notations contained in Attachment A. The codes are used in order to simplify both the identification of the action underlying the complaint and the keeping of the records.

004. Format of complaint record. Attachment A is the suggested format for the complaint record required to be maintained by the statute and this Regulation. Refinements, deviations from or additions to this suggested format are permitted so long as the minimum information contemplated by such format can be obtained for Insurance Department review within a reasonable time following a request thereof by an authorized representative of the Department.

005. Maintenance of the record. The complaint record shall be kept on a calendar year basis and the number of complaints by line of insurance, function, reason, disposition, and state of origin shall be compiled not less frequently than annually.

The complaint record required by this Regulation shall be maintained on and after the date 60 days after the effective date of this Regulation.

006. Definitions. As used herein:

006.01 "Person" shall have the meaning set forth in Section 2 (1) of LB349, Eighty-Third Legislature, First Session, 1973 ~~Neb.Rev.Stat. §44-1523(5);~~

006.02 "Complaint" shall mean a written communication primarily expressing a grievance;

~~006.03 "Insurance Department Complaint" shall mean a written communication regarding a complaint transmitted by the Insurance Department.~~

~~007. Effective date. This Regulation is effective on November 1, 1973.~~

-

~~COMPLAINT RECORD~~

| | | | | | | |
|---|---------------|---------------|-------------|---|----------------------------------|-------------------|
| - | - | - | - | - | - | - |
| Column A Company Identification (Agent's Number) (Staff Adjuster's Number) | Function Code | B Reason Code | C Line Type | D Company Disposition After Complaint Receipt | E Date Received | F Date Closed |
| | | | | | G Insurance Department Complaint | H State of Origin |

ATTACHMENT B

EXPLANATION OF COMPLAINT RECORD

Column

~~A. Company Identification Number. As noted, this refers to the identification number of the complaint and shall also include the license number or other means of identifying any licensee of the Insurance Department (such as agent, adjuster or independent adjuster) that may have been involved in the complaint.~~

~~B. Function Code. Complaints are to be classified by function(s) of the company involved. Separate classifications are to be maintained for underwriting, marketing or sales, claims, policyholder service and miscellaneous.~~

~~Reason Code. Complaints are also to be classified by the nature of the complaint. The following is the classification required for each function specified above:~~

~~(1) Underwriting~~

~~(a) Company underwriting~~

~~(b) individual's application underwriting (this refers to any complaint where misrepresentations or declarations in an application for insurance resulted in company action involved in the complaint)~~

~~(c) Cancellation~~

~~(d) Rescission~~

~~(e) Non-renewal~~

~~(f) Premiums and rating~~

~~(g) Delays~~

~~(h) Refusal to insure~~

~~(i) Miscellaneous (not covered by above)~~

~~(2) Marketing and Sales~~

~~(a) General advertising~~

(b) Mass marketing advertising—(advertising which is essentially directed to reach more people than in a one-to-one relationship)

(c) Agent handling

(d) Replacement

(e) Dividend illustration

(f) Delays

(g) Alleged misleading statement or misrepresentation

(h) Miscellaneous (not covered by above)

(3) Claims

(a) Claims procedure

(b) Delays

(c) Unsatisfactory settlements

(d) Natural disaster adjusting (hurricane or flood situations or other situations which produce a large number of claims)

(e) Unsatisfactory settlement offer

(f) Denial of claim

(g) Miscellaneous (not covered by above)

(4) Policyholder service

(a) Failure to respond

(b) Delays

(c) Miscellaneous (not covered by above)

(5) Miscellaneous

C. Line Type. Complaints are to be classified according to the line of insurance involved, as follows:

- (1) Automobile
- (2) Fire
- (3) Homeowners—Farmowners
- (4) Crop
- (5) Inland Marine
- (6) Individual Life
- (7) Group Life
- (8) Annuities
- (9) Individual Health—Accident & Sickness
- (10) Group Health—Accident and Sickness
- (11) Workmen's Compensation
- (12) Liability Insurance other than Automobile
- (13) Mobile Homeowners
- (14) Miscellaneous (not covered by above)

~~D. Company Disposition After Receipt. The complaint record shall note the disposition of the complaint. The following examples illustrate the type of information called for, but are not intended to be required language nor to exhaust the possibilities: corrective action was taken; no action was deemed necessary; or a satisfactory explanation was given to the complainant. If the company wishes it may use a code for entries in this column.~~

~~E. Date Received. This refers to the date the complaint was received.~~

~~F. Date Closed. This refers to the date on which the complaint was disposed of whether by one action or a series of actions as may be present in connection with some complaints.~~

~~G. Insurance Department Complaint. If the origin of the complaint was from an insurance department, it should be so identified.~~

~~H. State of Origin. The complaint record should note the state from which the complaint originated. Ordinarily this will be the state of residence of the complainant.~~

Title 210 – Department of Insurance

Chapter 21 (Repealed)

Title 210 - NEBRASKA DEPARTMENT OF INSURANCE

Chapter 23 - CREDIT TRANSACTIONS; COERCING INSURANCE; UNFAIR TRADE PRACTICE; INSTRUCTIONS; PENALTIES

001. Statutory authority. Pursuant to Section Neb.Rev.Stat. §44-101.01 R.S. Supp. 1969 the Director of Insurance hereby rules that it is an unfair trade practice for any insurance agent, broker, or other individual, to coerce the purchase of insurance, or to require the purchase of insurance from a particular insurance agent, agency, broker, or company, as a condition precedent to the consummation of any credit transaction.

002. Instructions. To assure compliance with the foregoing ruling, it is essential that the companies or individuals involved comply with the following instructions:

002.01 Purchasers or borrowers, in all credit transactions where insurance coverage is mandatory, must not be misled concerning their right to purchase from any insurance company licensed by the State of Nebraska, which company provides the coverage required. Where property insurance is required, in transactions involving the purchase of motor vehicles, the vendor or creditor need not accept as evidence of insurance a policy which does not contain an approved LOSS PAYABLE clause.

002.02 Purchaser or borrowers who choose to purchase insurance from the company represented by the vendor or creditor must be furnished an original policy, a duplicate copy thereof, or a memorandum which recites:

002.02A The name of the insurer;

002.02B The number of the policy;

002.02C The term and effective dates of the policy;

002.02D The coverage provided; and

002.02E The premium charged, properly apportioned to the particular risk.

002.03 In transactions involving the sale of motor vehicles, all automobile insurance policies issued by vendors or creditors must be plainly printed or stamped notifying the purchaser or borrower to the effect that the policy does not insure against liability for bodily injury or property damage, if such policy does not insure against liability for damages to persons, or property of persons, other than the insured.

~~002.04 All vendors or creditors must maintain separate books for all credit transactions and shall immediately upon receipt of a return of premium or benefit make payment to the insured or to the beneficiary of the insured.~~

~~002.05 Alternative penalties for violation of this Rule are contained in Sections 44-339 and 44-1515 to 44-1518 R.S., 1943.~~

Title 210 – Department of Insurance

Chapter 23 (Repealed)

Title 210 - NEBRASKA DEPARTMENT OF INSURANCE

Chapter 25 - TAXATION; FOREIGN LIFE OR ACCIDENT INSURANCE COMPANIES; ALLOCATION OF PREMIUMS RECEIVED FROM GROUP POLICIES TO INSURED'S DOMICILIARY STATE; INTERPRETATION OF SECTION 77-908

001. Allocation of premiums received from group policies to insured's domiciliary state. It has come to the attention of this Department that the entire premium collected for the group contracts is considered business done in the state in which the premium is collected, notwithstanding the fact that many of the insureds under the policy are residents of states other than the state of collection.

002. Section 77-908. Section Neb.Rev.Stat. §77-908 R.S. Supp., 1955, provides: "Every foreign or alien insurance company, organized under the stock, mutual assessment, or reciprocal plan which is transacting business in this state, except fraternal beneficiary benefit associations societies, which is transacting business in this state shall, on or before March 1 of each year, in lieu of any other intangible property tax, pay a tax to the director of two, one per cent of the gross amount of direct writing premiums received by it during the preceding calendar year for business done in this state., except that (1) for group sickness and accident insurance the rate of such tax shall be five tenths of one percent and (2) for property and casualty insurance, excluding individual sickness and accident insurance, the rate of such tax shall be one percent. The taxable life insurance premiums shall include premiums paid on the lives of persons residing in this state and premiums paid for risks located in this state whether the insurance was written in this state or not., including that portion of a group premium paid which represents the premium for insurance on Nebraska residents or risks located in Nebraska included within the group when the number of lives in the group exceeds five hundred. The tax shall also apply to premiums received by domestic companies for insurance written on individuals residing outside this state or risks located outside this state if no comparable tax is paid by the direct writing domestic company to any other appropriate taxing authority. Companies who whose scheme of operation contemplates the return of a portion of premiums to policyholders, without such policyholders being claimants under the terms of their policies, may deduct such return premiums or dividends from their gross premiums for the purpose of tax calculation. Any such insurance company shall receive a credit on the tax imposed as provided in the Community Development Assistance Act."

003. Interpretation of section 77-908. This Department interprets this section as contemplating the taxation of that part of the total group premium, collected in a foreign state, which represents the charge or premium for insuring the Nebraska residents included in the group.

Therefore, It Is Ruled:

003.01 Every foreign or alien insurance company shall include in "gross amount of direct writing premiums received . . . for business done in this state" that portion of a group premium received which represents the premium for insurance on the Nebraska residents included in the group.

~~003.02 This rule applies notwithstanding the fact that the group contract is entered into and the group premiums are paid and received in a foreign state.~~

~~003.03 In the event the premium tax is not computed as outlined above, this Department will consider the tax unpaid and will proceed as required by law.~~

Title 210 – Department of Insurance

Chapter 25 (Repealed)

Title 210 - NEBRASKA DEPARTMENT OF INSURANCE

Chapter 47 - GROUP SELF-INSURANCE RULE IMPLEMENTING THE INTERGOVERNMENTAL RISK MANAGEMENT ACT

001. Authority. This rule is promulgated pursuant to the authority granted in the Intergovernmental Risk Management Act, adopted under Neb.Rev.Stat. §§ 44-4308 and 44-4314.

002. Purpose. The purpose of this rule is to ~~set forth~~ adopt procedural requirements which the Director ~~deems necessary~~ procedures to carry out the provisions of the Intergovernmental Risk Management Act pertaining to group self-insurance, including but not limited to matters such as the application for a certificate of authority, reserves, dividends, claims processing, modifications to the program and periodic reports.

003. Definitions.

003.01 ~~The~~ For the purposes of this rule, in addition to the definitions in the Intergovernmental Risk Management Act as ~~set forth~~ in Neb.Rev.Stat. § 44-4303 and in Neb.Rev.Stat. § 44-103 shall apply in the construction of this rule as if fully set forth herein. ~~Those definitions and the following definitions shall govern the construction of the terms used in this rule.;~~

003.02 Act means Intergovernmental Risk Management Act.

003.032 Administrator means an individual, partnership, corporation, or unincorporated association, limited liability company, or other entity, engaged by a risk management pool for the purposes of carrying out the policies established by the pool's governing board and to provide day to day management of the pool to provide services in connection with the management or operation of the pool.

003.04 Department means Department of Insurance.

003.05 Director means Director of Insurance.

003.063 Dividend means a share of earned surplus allocated to each member participating in the pool.

003.074 Hazardous to the public shall mean that, based on its present or reasonably anticipated financial condition, a group self-insurance pool, although it may not yet be financially impaired or insolvent, is unlikely to be able to (a) meet obligations to policyholders with respect to known

claims and reasonably anticipated claims or (b) pay other obligations in the normal course of business.

~~003.08 Pool shall mean self-insurance pool in which each member makes financial contribution for the payment of all losses incurred by any member which are protected against by the pool.~~

003.095 Qualified Actuary shall mean a person:

003.095A(1) Who provides services to a pool described in Neb.Rev.Stat. § 44-4304(1), is a fellow or associate of the Casualty Actuarial Society, a member of the American Academy of Actuaries and independent of the insurance company electing to discount its reserves; or

003.095A(2) Who provides services to a pool described in Neb.Rev.Stat. § 44-4304(2), is a fellow or associate of the Society of Actuaries, a member of the American Academy of Actuaries, independent of the pool and its members, and independent of any insurance company electing to discount its reserves, and independent of any reinsurance company contracted with the pool; or

003.095B Who meets all of the following requirements:

003.095B(1) Has demonstrated to the Director director that he or she is possessed of the educational background and experience necessary for the practice of actuarial science including, but not limited to, the evaluation of casualty loss reserves;

003.095B(2) Is independent of the insurance company electing to discount its reserves, the pool and its members, and any reinsurance company contracted with the pool; and

003.095B(3) Has the prior written approval of the Director director to sign claim or loss reserve opinions required by this rule.

003.10 Service company means a person or entity which provides services not provided by the administrator, including but not limited to (a) claims adjustment, (b) loss control -- safety management, (c) compilation of statistics and the preparation of premium and loss reports, (d) preparation of other required self-insurance reports, (e) development of members' assessments and fees, and (f) administration of a claim fund.

003.11 Surplus shall mean the amount obtained by subtracting, from the admitted assets, actual liabilities, including any reserves which by law must be maintained.

004. Application for certificate of authority. A risk management pool organized pursuant to the Intergovernmental Risk Management Act may apply to the ~~Director~~ director for a certificate of authority to provide group self-insurance to its members. ~~A pool shall not accept contributions for group self-insurance coverage and shall not provide such insurance coverage to its members until the certificate of authority has been issued by the Director~~ director. The application shall be accompanied by an application filing fee of one thousand dollars, and shall include the pool's name, location of its principle principal office, date of organization, and the name and address of each member. The following information shall be submitted with the application, and shall specify the types of coverage involved, where applicable:

004.01 A copy of the agreement entered into for the purpose of establishing and operating a risk management pool as required by Neb.Rev.Stat. '§ 44-4306;

004.02 A copy of the pool's articles of incorporation, articles of association or by-laws;

004.03 Disclosure of the lines of insurance coverage to be provided as specified under Neb.Rev.Stat. '§ 44-4304;

004.04 Pro forma financial statements and projections for at least the first five ~~(5)~~ 5 years of operation;

004.05 Historical and expected loss experience of the proposed members to the extent reasonably available;

004.06 Appropriate actuarial opinions by a qualified, independent actuary, including a determination of minimum premium or participation levels required to ~~commence~~ begin operations and to prevent the pool from being hazardous to the public;

004.07 A copy of the agreement entered into with any administrator or service company and biographical information on such individuals or if an entity, the individuals providing the services for such entity;

004.08 Address in Nebraska where books and records of the pool will be maintained at all times;

004.09 Disclosure of proposed standard insurance, excess insurance, excess stop-loss reinsurance arrangements, and reinsurance arrangements and a copy of such agreements as they become available;

004.10 Disclosure of member contribution levels and the criteria used to determine the contribution levels;

004.11 A copy of any insuring agreements, forms, and certificates of insurance coverage to be issued by the pool to each member of the pool;

004.12 Disclosure of the extent to which initial pool funding will be raised through the issuance of bonds; and

004.13 Such other information as the ~~Director~~ director may reasonably require.

005. Reserves. A risk management pool shall maintain the same reserves as required of a Nebraska domestic property and casualty insurance company offering the same coverage as the group insurance offered by a pool to its members, except that a pool may discount loss reserves if the pool's annual statement ~~required under Section 042~~ is accompanied by a certified statement of opinion by a qualified actuary which accurately reflects the effect of discounting of claim or loss reserves on the pool's financial condition. In the event a pool discounts its claim or loss reserves, the certified actuarial opinion defined in this section shall include the following:

005.01 An assessment of the adequacy of the undiscounted reserves;

005.02 An assessment of the appropriateness of the assumed interest rate, considering at least the following:

005.02A Valuation basis of bonds;

005.02B Yield on assets; and

005.02C The match of asset maturities to corresponding liabilities.

005.03 An assessment of the appropriateness of the liabilities to surplus ratio of the company;

005.04 An assessment of the appropriateness of the anticipated payment schedule, considering at least the following:

005.04A The pool's own paid claim or loss development history to the extent relevant and credible;

005.04B To the extent that such history is not relevant or credible, the experience of other insurers after allowance for any differences in form of coverage, nature of risks insured, limits written or retention levels after excess stop-loss reinsurance or reinsurance; and

005.04C Timing of excess stop-loss reinsurance or reinsurance recoverables and, if applicable, any additional excess stop-loss reinsurance or reinsurance premiums that may become due.

005.05 A description of the formula(s) formulas used for discounting, including any provision for adverse deviation;

005.06 An assessment of the appropriateness of the claim or loss reserve to surplus ratio of the pool;

005.07 An For a pool described in Neb.Rev.Stat. § 44-4304(1), an evaluation of any additional reinsurance premiums which may be due if loss development covered under retrospectively rated reinsurance proves adverse; and

005.08 Any other factors needed to accurately reflect the effect of discounting on the financial condition of the pool or as required by the Director director.

006. Dividends. A pool may not distribute dividends to its members until it has received approval by the Director director. A pool may not declare or pay any dividends except from earned surplus, ascertained in accordance with statutory insurance accounting principles. ~~In order to pay dividends to its members, the pool shall make application to the Director for approval, which~~ The application for approval to distribute dividends shall specify the date established for payment of the dividend; a statement as to whether the dividend is to be in cash or property, and if in property, how valuation was determined; the dates and amounts of all previous dividends; financial statements as of the month preceding the application; a brief statement as to the effect of the proposed dividend upon the pool's reserves and the reasonableness of surplus in relation to the pool's outstanding liabilities; and, the adequacy of the surplus relative to the pool's financial needs.

007. Surplus. A pool shall maintain adequate surplus and reserves and receive adequate financial contributions from its members ~~in order to~~ operate in a manner which is not hazardous to the public.

008. Investments. The surplus and other funds, ~~or part thereof,~~ of a pool shall be invested as ~~authorized for investments by Nebraska domestic property and casualty insurance companies offering the same coverage as the group insurance offered by the pool to its members.~~

009. Notice to dDepartment.

009.01 A pool shall notify the Department 30 days in advance of any assessments to cure a deficiency and of any changes in:

009.01A Contribution levels;

009.01B Coverages offered by the pool;

009.01C Administrator or service company, and any material change in such agreements with the administrator or service company;

009.01D The pool's articles of incorporation, articles of association and by-laws;

~~009.01E~~ 009.01E Any amendments to the agreement establishing in the pool;

~~009.01F~~ 009.01F Standard insurance, excess insurance, excess stop-loss insurance, excess stop-loss reinsurance agreements, and reinsurance agreements; or

~~009.01G~~ 009.01G The extent to which pool funding will be raised through the issuance of bonds.

~~009.02~~ 009.02 The notification shall be accompanied by a statement setting forth explaining the effect of such change on the pool and its ability to operate in a manner which is not hazardous to the public. A copy of any amended documents shall be provided and accompanied by appropriate supporting opinions and information to the extent necessary and reasonably available.

009.03 ~~Such-notified~~ The changes shall become effective 30 days after submitted to the Department unless disapproved by the director. ~~The Director~~ director shall disapprove any such notified change if ~~as a result of such change~~ the director determines the pool will not:

009.03A Have adequate surplus and reserves and receive adequate financial contributions from its members ~~in order to operate in a manner which is not hazardous to the public; or~~

009.03B Satisfy the requirements of Nebraska law, this chapter, the agreement establishing the pool, or the pool's by-laws.

010. Workers' compensation. A pool providing group self-insurance for Worker's Compensation coverage shall comply with the rules and regulations of the Nebraska Workers' Compensation Court.

011. Claims. A pool shall process and act upon claims in accordance with the guidelines applicable for domestic insurance companies.

012. Annual report of affairs and examinations.

012.01 Every pool shall make and file with the Department, on or before March 1 of each year, a report under oath of its affairs and operations during the last preceding calendar year, upon a form furnished by the Department. The report required under Neb. Rev. Stat. § 44-4310 shall show all contributions received by it the pool for membership in the pool during the previous calendar year. Such annual statements shall use insurance statutory accounting principles and shall include an actuarial or loss reserve specialist opinion on claim or loss reserves and loss adjusting expense reserves.

012.02 A pool discounting claim or loss reserves shall disclose the discounting of claim or loss reserves in its annual and other financial statements in a manner which will accurately reflect the effect of discounting of claim or loss reserves on the pool's financial condition.

012.03 In addition to the annual report of affairs, every pool shall make and file such periodic reports on forms furnished by the Department as the Director may require.

012.043 The reasonable expenses for examination of the business affairs, records, and assets of each pool conducted by the Department pursuant to Neb.Rev.Stat. '§ 44-4310(2) shall be fixed and determined by the Director director. Each pool shall be responsible for the payment of the determined expenses to the Director director within a reasonable time after the receipt of the statement for such expenses. The expenses shall be limited to a reasonable allocation for the salary of each examiner plus actual expenses.

013. Payment to Director ~~director~~; computation.

013.01 Pursuant to Neb.Rev.Stat. '44-4320, every risk management pool shall pay to the Director of Insurance, on or before March 1 of each year, an amount equal to one percent of annual contributions received by the pool during the immediately preceding calendar year for coverage of all risks, excluding workers compensation risks, included within the pool's group self-insurance program. On or before March 1 of each year, every risk management pool shall pay to the director the amounts required pursuant to Neb.Rev.Stat. § 44-4320 and § 48-162.02.

013.01A A pool which has a scheme of operations that contemplates a return of a portion of the contributions of pool members without such members being claimants under the pool's insuring agreements may deduct such return contributions from the pool's contributions for the purpose of calculating the payment due to the ~~Director of Insurance~~ director under Neb.Rev.Stat. § 44-4320 and § 48-162.02.

013.01B A pool which has a scheme of operations that includes the purchase of standard insurance subject to premium tax under Neb.Rev.Stat. ' § 77-908 or ' § 44-5506 may deduct the cost of such insurance from the pool's contributions for the purpose of calculating the payment due to the ~~Director of Insurance~~ director under Neb.Rev.Stat. § 44-4320 and § 48-162.02.

~~013.02 Pursuant to Neb.Rev.Stat. '44-4320, every risk management pool providing workers' compensation coverage shall pay to the Director of Insurance, on or before March 1 of each year, an amount equal to one percent of the prevailing premium rate which would be paid for all policies of insurance to insure workers' compensation risks. The prevailing premium rate is subject to periodic change, and is available from the Department of Insurance or Workers' Compensation Court upon request.~~

~~013.02A In addition to the requirements of Subsection 013.02, pools providing workers' compensation coverage within the pool's group self-insurance program shall be subject to the following:~~

~~013.02A(1) The Nebraska Workers' Compensation Court may, from time to time, require that contributions be made to the Second Injury Fund, pursuant to Neb.Rev.Stat. '48-128. In the event such an assessment is made, every risk management pool providing workers' compensation group self-insurance coverage to any of its members shall on or before March 1 of each year pay to the Director of Insurance director an amount equal to one percent of the prevailing premium rate which would be paid for a policy of workers' compensation insurance to insure such risk, but in no event less than \$25.00.~~

~~013.02A(2) The Nebraska Workers' Compensation Court may, from time to time, require that a risk management pool make contribution to the Vocational Rehabilitation Fund, pursuant to Neb.Rev.Stat. '48-162.02. Every risk management pool providing workers' compensation group self-insurance coverage to any of its members shall, on or before March 1 of each year in which such payment is required, pay to the Director of Insurance an amount equal to one percent of the prevailing premium rate which would be paid for a policy of workers' compensation insurance to insure such risk.~~

~~013.03 The computation of payments shall be made on forms furnished by the Department of Insurance and shall be filed with the Department, together with a sworn statement by the pool's chief operating officer attesting to the accuracy of the computation. The Department shall furnish such forms to each pool prior to the end of the year for which such amount is payable together with any information relative to computation of the amount as may be necessary.~~

014. Termination of membership in the pool.

~~014.01 In order for a member to may voluntarily terminate participation in the pool, such member shall give by giving written notice of the desired termination date to the Department, the other pool members and the pool's administrator at least 90 days prior to before the desired termination date. Within 30 days after receiving such notice of a member's voluntary termination of participation under Neb.Rev.Stat. § 44-4309(1), the pool's governing board shall submit a written report to the Department which:~~

014.01A discloses whether the terminating member and remaining members of the pool have paid all contributions and assessments due the pool, have discharged all other obligations owed to the pool, and have complied with the laws of Nebraska, this rule, and the by-laws of the pool; and

014.01B projects the effect on the pool due to the member's withdrawal from the pool.

014.02 A member of the pool may be involuntarily terminated from the pool as provided for in Neb.Rev.Stat. '§ 44-4309(2).

015. Voluntary dissolution of the pool.

~~015.01 A pool shall not be voluntarily dissolved voluntarily dissolve or cease to function unless the governing board obtains the approval of the Director director and thereafter obtains the approval of the pool's members in accordance with the agreement establishing the pool and the pool's by-laws, which shall require a two-thirds majority vote. The governing board may submit a written application seeking the Director's director's approval to voluntarily dissolve, at least 90 days in advance of the proposed dissolution date, setting forth the following:~~

015.01A Desired date of pool's dissolution;

015.01B Resolution of the governing board to terminate the pool and seeking the Director's director's approval of such termination; and

015.01C A plan of dissolution adopted by the governing board which sets forth describes the pool's arrangements for satisfying its obligations, including but not limited to the insurance or reinsurance of its obligations with insurers under appropriate agreements filed with and approved by the ~~Director~~ director, or such alternative arrangements which provide for the payment of all claims, liabilities and debts such as a contingency or trust fund for future claims and obligations. Such obligations shall include both known claims and associated expenses associated therewith and claims incurred but not reported and associated expenses associated therewith. Additionally, the The plan shall provide for the distribution of any assets remaining after payment of claims, liabilities and debts and the return of any unearned premium contributions. The return of surplus contributions must be based on an equitable formula.

015.02 The ~~Director~~ director shall, within 30 days from the date the application for voluntary dissolution was submitted to the Department, issue a written determination regarding the application to voluntarily dissolve, and if approved, the pool shall proceed by placing the matter before the pool members for a vote within 30 days after the approval of the ~~Director~~ director.

015.03 The governing board of the pool shall certify the results of the vote to the Department and proceed accordingly.

~~016. Hearings. Administrative hearings initiated before the Department as a result of actions taken under the provision of the Act or this rule shall be subject to the provisions of the Administrative Procedure Act, Neb. Rev. Stat. '84-901 et seq. and Title 210, Nebraska Administrative Code, Chapter 26.~~

~~017. Severability clause. If any provisions of this rule, or the application thereof to any persons or circumstances, is held invalid, such invalidity shall not affect other provisions or application of this rule which can be given effect without the invalid portion or application, and to that end, the provisions of this rule are severable.~~

Title 210 - NEBRASKA DEPARTMENT OF INSURANCE

Chapter 47 - GROUP SELF-INSURANCE RULE IMPLEMENTING THE INTERGOVERNMENTAL RISK MANAGEMENT ACT

001. Authority. This rule is adopted under Neb.Rev.Stat. §§ 44-4308 and 44-4314.

002. Purpose. The purpose of this rule is to procedures to carry out the provisions of the Intergovernmental Risk Management Act.

003. Definitions.

003.01 For the purposes of this rule, in addition to the definitions in Neb.Rev.Stat. § 44-4303 and in Neb.Rev.Stat. § 44-103:

003.02 Administrator means an individual, partnership, corporation, unincorporated association, limited liability company, or other entity, engaged by a risk management pool to provide services in connection with the management or operation of the pool.

003.03 Dividend means a share of earned surplus allocated to each member participating in the pool.

003.04 Hazardous to the public shall mean that, based on its present or reasonably anticipated financial condition, a group self-insurance pool, although it may not yet be financially impaired or insolvent, is unlikely to be able to (a) meet obligations to policyholders with respect to known claims and reasonably anticipated claims or (b) pay other obligations in the normal course of business.

003.05 Qualified Actuary shall mean a person:

003.05A(1) Who provides services to a pool described in Neb.Rev.Stat. § 44-4304(1), is a fellow or associate of the Casualty Actuarial Society, a member of the American Academy of Actuaries and independent of the insurance company electing to discount its reserves; or

003.05A(2) Who provides services to a pool described in Neb.Rev.Stat. § 44-4304(2), is a fellow or associate of the Society of Actuaries, a member of the American Academy of Actuaries, independent of the pool and its members, and

independent of any insurance company electing to discount its reserves, and independent of any reinsurance company contracted with the pool; or

003.05B Who meets all the following requirements:

003.05B(1) Has demonstrated to the director that he or she is possessed of the educational background and experience necessary for the practice of actuarial science

003.05B(2) Is independent of the insurance company electing to discount its reserves, the pool and its members, and any reinsurance company contracted with the pool; and

003.05B(3) Has the prior written approval of the director to sign claim or loss reserve opinions required by this rule.

003.10 Service company means a person or entity which provides services not provided by the administrator, including (a) claims adjustment, (b) loss control -- safety management, (c) compilation of statistics and the preparation of premium and loss reports, (d) preparation of other required self-insurance reports, (e) development of members' assessments and fees, and (f) administration of a claim fund.

003.11 Surplus shall mean the amount obtained by subtracting, from the admitted assets, actual liabilities, including any reserves which by law must be maintained.

004. Application for certificate of authority. A risk management pool organized pursuant to the Intergovernmental Risk Management Act may apply to the director for a certificate of authority to provide group self-insurance to its members. The application shall include the pool's name, location of its principal office, date of organization, and the name and address of each member. The following information shall be submitted with the application, and shall specify the types of coverage involved, where applicable:

004.01 A copy of the agreement entered into for the purpose of establishing and operating a risk management pool as required by Neb.Rev.Stat. § 44-4306;

004.02 A copy of the pool's articles of incorporation, articles of association or by-laws;

004.03 Disclosure of the lines of insurance coverage to be provided as specified under Neb.Rev.Stat. § 44-4304;

004.04 Pro forma financial statements and projections for at least the first 5 years of operation;

004.05 Historical and expected loss experience of the proposed members to the extent reasonably available;

004.06 Appropriate actuarial opinions by a qualified, independent actuary, including a determination of minimum premium or participation levels required to begin operations and to prevent the pool from being hazardous to the public;

004.07 A copy of the agreement with any administrator or service company and biographical information on such individuals or if an entity, the individuals providing the services for such entity;

004.08 Address in Nebraska where books and records of the pool will be maintained at all times;

004.09 Disclosure of proposed standard insurance, excess insurance, excess stop-loss reinsurance arrangements, and reinsurance arrangements and a copy of such agreements as they become available;

004.10 Disclosure of member contribution levels and the criteria used to determine the contribution levels;

004.11 A copy of any insuring agreements, forms, and certificates of insurance coverage to be issued by the pool to each member of the pool;

004.12 Disclosure of the extent to which initial pool funding will be raised through the issuance of bonds; and

004.13 Such other information as the director may reasonably require.

005. Reserves. A risk management pool shall maintain the same reserves as required of a Nebraska domestic insurance company offering the same coverage as the group insurance offered by a pool to its members, except that a pool may discount loss reserves if the pool's annual statement is accompanied by a certified statement of opinion by a qualified actuary which accurately reflects the effect of discounting of claim or loss reserves on the pool's financial

condition. In the event a pool discounts its claim or loss reserves, the certified actuarial opinion defined in this section shall include the following:

005.01 An assessment of the adequacy of the undiscounted reserves;

005.02 An assessment of the appropriateness of the assumed interest rate, considering at least the following:

005.02A Valuation basis of bonds;

005.02B Yield on assets; and

005.02C The match of asset maturities to corresponding liabilities.

005.03 An assessment of the appropriateness of the liabilities to surplus ratio of the company;

005.04 An assessment of the appropriateness of the anticipated payment schedule, considering at least the following:

005.04A The pool's own paid claim or loss development history to the extent relevant and credible;

005.04B To the extent that such history is not relevant or credible, the experience of other insurers after allowance for any differences in form of coverage, nature of risks insured, limits written or retention levels after excess stop-loss reinsurance or reinsurance; and

005.04C Timing of excess stop-loss reinsurance or reinsurance recoverables and, if applicable, any additional excess stop-loss reinsurance or reinsurance premiums that may become due.

005.05 A description of the formulas used for discounting, including any provision for adverse deviation;

005.06 An assessment of the appropriateness of the claim or loss reserve to surplus ratio of the pool;

005.07 For a pool described in Neb.Rev.Stat. § 44-4304(1), an evaluation of any additional reinsurance premiums which may be due if loss development covered under retrospectively rated reinsurance proves adverse; and

005.08 Any other factors needed to accurately reflect the effect of discounting on the financial condition of the pool or as required by the director.

006. Dividends. A pool may not distribute dividends to its members until it has received approval by the director. A pool may not declare or pay any dividends except from earned surplus, ascertained in accordance with statutory insurance accounting principles. The application for approval to distribute dividends shall specify the date established for payment of the dividend; a statement as to whether the dividend is to be in cash or property, and if in property, how valuation was determined; the dates and amounts of all previous dividends; financial statements as of the month preceding the application; a brief statement as to the effect of the proposed dividend upon the pool's reserves and the reasonableness of surplus in relation to the pool's outstanding liabilities; and, the adequacy of the surplus relative to the pool's financial needs.

007. Surplus. A pool shall maintain adequate surplus and reserves and receive adequate financial contributions from its members to operate in a manner which is not hazardous to the public.

008. Investments. The surplus and other funds, of a pool shall be invested as authorized by Nebraska domestic insurance companies offering the same coverage as the group insurance offered by the pool to its members.

009. Notice to Department.

009.01 A pool shall notify the Department 30 days in advance of any assessments to cure a deficiency and of any changes in:

009.01A Contribution levels;

009.01B Coverages offered by the pool;

009.01C Administrator or service company, and any material change in such agreements with the administrator or service company;

009.01D The pool's articles of incorporation, articles of association and by-laws;

009.01E Any amendments to the agreement establishing in the pool;

009.01F Standard insurance, excess insurance, excess stop-loss insurance, excess stop-loss reinsurance agreements, and reinsurance agreements; or

009.01G The extent to which pool funding will be raised through the issuance of bonds.

009.02 The notification shall be accompanied by a statement explaining the effect of such change on the pool and its ability to operate in a manner which is not hazardous to the public. A copy of any amended documents shall be provided and accompanied by appropriate supporting opinions and information to the extent necessary and reasonably available.

009.03 The changes shall become effective 30 days after submitted to the Department unless disapproved by the director. The director shall disapprove any such notified change if the director determines the pool will not:

009.03A Have adequate surplus and reserves and receive adequate financial contributions from its members to operate in a manner which is not hazardous to the public; or

009.03B Satisfy the requirements of Nebraska law, this chapter, the agreement establishing the pool, or the pool's by-laws.

010. Workers' compensation. A pool providing group self-insurance for Worker's Compensation coverage shall comply with the rules and regulations of the Nebraska Workers' Compensation Court.

011. Claims. A pool shall act upon claims in accordance with the guidelines for domestic insurance companies.

012. Annual report of affairs and examinations.

012.01 The report required under Neb. Rev. Stat. § 44-4310 shall show all contributions received by the pool for membership in the pool during the previous calendar year. Such annual statements shall use insurance statutory accounting principles and shall include an actuarial or loss reserve specialist opinion on claim or loss reserves and loss adjusting expense reserves.

012.02 A pool discounting claim or loss reserves shall disclose the discounting of claim or loss reserves in its annual and other financial statements in a manner which will accurately reflect the effect of discounting of claim or loss reserves on the pool's financial condition.

012.03 The reasonable expenses for examination of the business affairs, records, and assets of each pool conducted by the Department pursuant to Neb.Rev.Stat. § 44-4310(2) shall be determined by the director. Each pool shall be responsible for the payment of the determined expenses to the director within a reasonable time after the receipt of the statement for such expenses. The expenses shall be limited to a reasonable allocation for the salary of each examiner plus actual expenses.

013. Payment to director; computation.

013.01 On or before March 1 of each year, every risk management pool shall pay to the director the amounts required pursuant to Neb.Rev.Stat. § 44-4320 and § 48-162.02.

013.01A A pool which has a scheme of operations that contemplates a return of a portion of the contributions of pool members without such members being claimants under the pool's insuring agreements may deduct such return contributions from the pool's contributions for the purpose of calculating the payment due to the director under Neb.Rev.Stat. § 44-4320 and § 48-162.02.

013.01B A pool which has a scheme of operations that includes the purchase of standard insurance subject to premium tax under Neb.Rev.Stat. § 77-908 or § 44-5506 may deduct the cost of such insurance from the pool's contributions for the purpose of calculating the payment due to the director under Neb.Rev.Stat. § 44-4320 and § 48-162.02.

014. Termination of membership in the pool.

014.01 Within 30 days after receiving notice of a member's voluntary termination of participation under Neb.Rev.Stat. § 44-4309(1), the pool's governing board shall submit a written report to the Department which:

014.01A discloses whether the terminating member and remaining members of the pool have paid all contributions and assessments due the pool, have discharged all other obligations owed to the pool, and have complied with the laws of Nebraska, this rule, and the by-laws of the pool; and

014.01B projects the effect on the pool due to the member's withdrawal from the pool.

014.02 A member of the pool may be involuntarily terminated from the pool as provided in Neb.Rev.Stat. § 44-4309(2).

015. Voluntary dissolution of the pool.

015.01 A pool shall not voluntarily dissolve or cease to function unless the governing board obtains the approval of the director and obtains the approval of the pool's members in accordance with the agreement establishing the pool and the pool's by-laws, which shall require a two-thirds majority vote. The governing board may submit a written application seeking the director's approval to voluntarily dissolve, at least 90 days in advance of the proposed dissolution date, setting forth the following:

015.01A Desired date of pool's dissolution;

015.01B Resolution of the governing board to terminate the pool and seeking the director's approval of such termination; and

015.01C A plan of dissolution adopted by the governing board which describes the pool's arrangements for satisfying its obligations, including the insurance or reinsurance of its obligations with insurers under appropriate agreements approved by the director, or such alternative arrangements which provide for the payment of all claims, liabilities and debts such as a contingency or trust fund for future claims and obligations. Such obligations shall include both known claims and associated expenses and claims incurred but not reported and associated expenses. The plan shall provide for the distribution of any assets remaining after payment of claims, liabilities and debts and the return of any unearned premium contributions. The return of surplus contributions must be based on an equitable formula.

015.02 The director shall, within 30 days from the date the application for voluntary dissolution was submitted to the Department, issue a written determination regarding the application to voluntarily dissolve, and if approved, the pool shall proceed by placing the matter before the pool members for a vote within 30 days after the approval of the director.

015.03 The governing board of the pool shall certify the results of the vote to the Department and proceed accordingly.

TITLE 210 – NEBRASKA DEPARTMENT OF INSURANCE

CHAPTER 78 - MULTIPLE EMPLOYER WELFARE ARRANGEMENT

001. Authority. This rule is adopted and promulgated by the Director of Insurance of the State of Nebraska pursuant to the Multiple Employer Welfare Arrangement Act ("MEWA Act"), NEB. REV. STAT. §44-7601 ET SEQ., and specifically §§44-7605, 44-7613(1), (2) and 44-7615.

002. Purpose. The purpose of this rule is to set forth rules and procedural requirements which the director deems necessary to carry out the provisions of NEB. REV. STAT. §44-7601 ET SEQ.

003. Severability. If any section of this rule, or the applicability thereof to any person or circumstance, is held invalid, the remainder of the rule and the application of such provision to other persons or circumstances shall not be affected thereby.

004. Scope. This rule shall apply to all multiple employer welfare arrangements, which offer or maintain a health benefit plan that is not fully insured, to or on behalf of an employer domiciled in this state or to an employer which has its principal headquarters or principal administrative offices in this state.

005. Definitions. For purposes of this rule:

005.01—Certificate of registration means a document issued by the director authorizing a multiple employer welfare arrangement to offer a health benefit plan that is not fully insured;

005.02—Covered employee means an employee who is covered by a health benefit plan provided through a multiple employer welfare arrangement in which the employer is participating. Covered employee includes a dependent of an employee as defined under the terms of the health benefit plan;

005.03—Director means the Director of Insurance;

~~005.04~~ Fully insured health benefit plan means a health benefit plan which provides for health benefits, all of which are guaranteed under a contract or policy of insurance issued by an insurance company licensed to transact the business of insurance in this state;

~~005.05~~ Health benefit plan means an employee welfare benefit plan to the extent that it provides any hospital, surgical, or medical expense benefits to covered employees directly or through insurance, reimbursement, or otherwise. Health benefit plan does not include (a) accident-only, disability income, hospital confinement indemnity, dental, or credit insurance, (b) coverage issued as a supplement to liability insurance, (c) Medicare or insurance provided as a supplement to Medicare, (d) insurance arising from workers' compensation provisions, (e) automobile medical payment insurance, (f) any other specific limited coverage, or (g) insurance under which benefits are payable with or without regard to fault and which is statutorily required to be contained in any liability insurance policy;

~~005.06~~ Multiple employer welfare arrangement means a multiple employer welfare arrangement ("MEWA"), as defined by 29 U.S.C. §1002, as such section existed on January 1, 2002, if the multiple employer welfare arrangement is sponsored by an association of employers that offers a health benefit plan that is not fully insured; and

~~005.07~~ Participating employer means an employer that participates in a multiple employer welfare arrangement.

006. Application for Certificate of Registration.

~~006.01~~ A multiple employer welfare arrangement seeking to offer a health benefit plan that is not fully insured shall apply for a certificate of registration in a form prescribed by the director. The application shall be completed and submitted to the director together with a one thousand-dollar fee and the following:

~~006.01(A)~~ Copies of all articles, bylaws, agreements, and other documents or instruments describing the organizational structure of the applicant;

~~006.01(A)~~ Copies of all materials and documents describing the rights and obligations of participating employers and covered employees with respect to the applicant, including evidence of activities of the association or group of employers on behalf of its members other than the sponsorship of the

MEWA, a current list of all members of the employer group or association sponsoring the MEWA, and a description of the relationship among all such employers which serves as the basis for the formation of the association or employer group;

006.01(B) A copy of the trust agreement of the applicant, which contains:

006.01(B)(i) A provision that the Board of Trustees shall be the fiduciary of the trust;

006.01(B)(ii) A provision that the members of the Board of Trustees shall be the plan administrator of the health benefit plan; and

006.01(B)(iii) A provision that the members of the Board of Trustees shall be responsible for implementing and carrying out the rules of operation and financial control of the health benefit plan based upon an annual plan of operation adequate to carry out terms of the health benefit plan, and to meet all requirements of the MEWA Act;

006.01(C) Copies of all documents referencing that the Board of Trustees is authorized to assess the participating employers an amount necessary to remedy any deficiency if the assets of the MEWA and the stop-loss insurance policy issued to the MEWA are at any time insufficient to pay claims made against a health benefit plan, or to discharge liabilities and obligations relating to the claims or other expenses of the health benefit plan;

006.01(D) A signed statement of each member of the Board of Trustees which states that the member is an owner, partner, officer, director, or employee of one or more of the employers participating in the health benefit plan, is not an owner, officer or employee, or a partner in, or contract administrator, or other service provider to the health benefit plan or of any third party administrator of the MEWA, and that he or she has not been convicted of any felony or a Class I, II, or III misdemeanor;

~~006.01(E) A statement from the Board of Trustees which certifies compliance with NEB. REV. STAT. §44-7606, and NEB. REV. STAT. §44-7607, including all of the following:~~

~~006.01(E)(i) The association which sponsors the MEWA has been in existence for at least three years prior to the date the MEWA filed its application for a certificate of registration with the Department;~~

~~006.01(E)(ii) The MEWA was established by a trade, industry, or professional association of two or more employers of the same trade or industry that has a constitution or bylaws, and has been organized and maintained in good faith for at least three continuous years prior to the date the MEWA filed its application for a certificate of registration with the Department;~~

~~006.01(E)(iii) The association or group of employers all sponsoring the MEWA is engaged in substantive activity for its members other than sponsorship of a health benefit plan; and~~

~~006.01(E)(iv) A certificate from the applicant that, to the best of its knowledge and belief, the MEWA is in compliance with all applicable provisions of the Employee Retirement Income Security Act of 1974 (29 U.S.C. §1001 et seq.)~~

~~006.01(G) A copy of the unaudited financial statement required by NEB. REV. STAT. §44-7613, as described in section 007 of this rule;~~

~~006.01(H) A statement showing in full detail the plan for offering a health benefit plan by the applicant;~~

~~006.01(I) Copies of all contracts and other instruments proposed to be made, offered, or sold by the applicant to its participating employers, together with a copy of its health benefit plan and summary plan description, and the proposed advertising materials to be used in the solicitation of participating employers;~~

~~006.01(J) A copy of the contract with the third-party administrator retained, if any, to administer the health benefit plan;~~

~~006.01(K) A copy of the stop loss insurance policy required by NEB. REV. STAT. §44-7609, as described in section 007 of this rule;~~

~~006.01(F) An actuarial opinion required by NEB. REV. STAT. §44-7613, as described in section 007 of this rule;~~

~~006.01(G) A copy of the most recent Form 5500 filed by the MEWA with the United States Department of Labor;~~

~~006.01(H) A copy of the most recent Form M-1 filed by the MEWA with the United States Department of Labor, Employee Benefits Security Administration;~~

~~006.01(I) A statement providing in specific detail the date the MEWA's annual fiscal year begins as well as the date the MEWA's annual fiscal year ends; and~~

~~006.01(J) Any other reasonable information requested by the director.~~

~~006.02 The director shall examine the application and supporting documents submitted by the applicant and shall conduct any investigation, which the director may deem necessary, and examine under oath any persons interested in or connected with the MEWA.~~

~~006.03 Within a reasonable time, the director shall issue to the MEWA a certificate upon finding that the applicant MEWA has met all requirements, or the director shall notify the applicant setting forth reasons for a denial upon finding that the applicant MEWA does not meet all the requirements.~~

~~006.04 Modifications to the plan of operation, including but not limited to amendments to articles of incorporation and bylaws, shall be submitted for prior approval to the director.~~

~~006.05 The director shall deny a certificate of registration if the applicant does not meet the requirements of the Multiple Employer Welfare Arrangement Act. Notice of denial shall be in writing and shall set forth the basis for the denial. If the applicant submits a written request for reconsideration within thirty (30) days after the notice was sent by the director, the director shall conduct a hearing on the denial pursuant to the Administrative Procedure Act.~~

007. Financial Requirements.

~~007.01 Stop Loss Insurance Policy. A MEWA offering a health benefit plan that is not fully insured shall be a named insured under a stop loss insurance~~

policy that provides coverage in excess of the MEWA's retention of one hundred twenty-five percent of the MEWA's expected health claims costs as determined on an aggregate basis. A policy issued to satisfy the requirements of this section shall be evidenced by a binder or a copy of a policy issued by an insurer licensed to transact the business of insurance in this state and shall contain a provision that the coverage may not be terminated by the insurer unless the MEWA and the director receive a written notice of termination from the insurer at least thirty days (30) before the effective date of the termination.

007.01—Annual Financial Statement. A MEWA shall file with the director, on an annual basis and within ninety (90) days after the last day of such MEWA's fiscal year, an unaudited financial statement for the preceding fiscal year, accompanied by a filing fee of two hundred dollars, which has been attested to by at least two members of the Board of Trustees, one of whom shall be the chairperson or president of the Board of Trustees. The financial statement attested to by such members of the Board of Trustees shall include language to the effect that the undersigned swears that (s)he has read the financial statement, is familiar with its contents, and that the facts therein are true and correct to the best of his/her knowledge, information and belief. The financial statement shall include at a minimum, balance sheets, income statements, and cash flow statement.

007.02 3——Actuarial Statement. A MEWA shall file with the director, on an annual basis and within ninety (90) days after the last day of such MEWA's fiscal year, a statement prepared, signed, and dated by a person who is a member of the American Academy of Actuaries, which shall include:

007.02 3(A) a statement that the rates charged and reserves, both (a) incurred and (b) incurred but not reported, are sufficient to pay claims and associated expenses for the health benefit plan;

007.02 3(B) a test of the prior fiscal year's claim reserves;

007.02 3(C) a brief description of how the reserves were calculated;

007.02 3(D) confirmation that the stop loss insurance policy, required by NEB. REV. STAT. §44-7609, is in force;

007.02 3(E) confirmation that appropriate loss and loss adjustment reserves have been established; and

~~007.02-3(F) confirmation that rates being charged are adequate to fund one hundred percent of the losses plus other costs borne by the multiple employer welfare arrangement.~~

~~008. Certificate of Compliance.~~ A MEWA shall file with the director, on an annual basis and within 90 days after the last day of such MEWA's fiscal year, a certificate of compliance. The certificate of compliance shall be signed and dated by at least two members of the Board of Trustees of the MEWA, one of whom shall be the chairperson or president of the Board of Trustees, and shall certify that to the best of their knowledge, information, and belief, the plan has been conducted in accordance with the applicable provisions of Nebraska law and rules and regulations relating to multiple employer welfare arrangements.

~~009. United States Department of Labor Forms.~~ Each year, a MEWA shall, within ninety (90) days of the last day of such MEWA's fiscal year, file with the Department, the most recent Form 5500 filed by the MEWA with the United States Department of Labor, the most recent Form M-1 filed by the MEWA with the United States Department of Labor Employee Benefits Security Administration and a detailed listing of assets, if such listing is not otherwise included as part of the Form 5500 filing.

~~010. Additional Information.~~ The director may request additional reports and/or information as deemed necessary to assure the legitimacy and the financial integrity of the multiple employer welfare arrangement.

~~011. Extension of Time.~~ Upon the written request of a multiple employer welfare arrangement and for good and sufficient cause shown, the director may grant a reasonable extension of time not to exceed thirty (30) days within which the documents referenced in sections 007.02, 007.03, 008, 009, and 010 of this rule, may be filed.

~~012. Change in Fiscal Year.~~ A MEWA shall notify the Department thirty (30) days before a change is made to the beginning or ending dates of the MEWA's annual fiscal year. In addition to the notification, the MEWA shall also provide to the Department a statement similar to that required in section 006.01(O) of this rule.

~~013. Agreements and Management Contracts.~~ Any agreement entered into between a MEWA that is subject to this rule and an administrator, service company, or any other entity shall be made available for review in the office of the director if requested by the director to determine the legitimacy or financial condition of the multiple employer welfare arrangement.

~~014. Notice to Department.~~

~~014.01~~ A MEWA shall notify the Department at least thirty (30) days before an assessment is levied to cure a deficiency and at least thirty (30) days before any changes in the following become effective:

~~014.01(A) Administrator or service company and any material change in such agreements with the administrator or service company;~~

~~014.01(B) Articles of incorporation, association and by laws of the MEWA; and~~

~~014.01(C) Stop-loss insurance policy.~~

~~014.02 Such notified changes shall become effective no less than thirty (30) days after having been submitted to the Department.~~

~~015. Penalties. Any multiple employer welfare arrangement, which violates any of the provisions of this regulation, shall be subject to a monetary penalty and/or cease and desist order, suspension or revocation of their certificate of registration pursuant to NEB. REV. STAT. §44-7614.~~

Title 210 – Department of Insurance

Chapter 78 (Repealed)

Title 210 - NEBRASKA DEPARTMENT OF INSURANCE

Chapter 85 - GROUP HEALTH, DENTAL, ACCIDENT, AND LIFE INSURANCE UNDER THE INTERGOVERNMENTAL RISK MANAGEMENT ACT

001. Authority. This rule is promulgated pursuant to the authority granted in the Intergovernmental Risk Management Act, NEB.REV.STAT. §44-4308 and §44-4314.

002. Purpose. The purpose of this rule is to set forth procedural requirements which the Director deems necessary to carry out the provisions of the Intergovernmental Risk Management Act pertaining to group health, dental, accident, and life insurance, including but not limited to matters such as the application for a certificate of authority, reserves, dividends, claims processing, modifications to the program and periodic reports.

003. Definitions.

003.01 The definitions in the Intergovernmental Risk Management Act as set forth in NEB.REV.STAT. § 44-4303 shall apply in the construction of this rule as if fully set forth herein. Those definitions and the following definitions shall govern the construction of the terms used in this rule.

003.02 Act means Intergovernmental Risk Management Act.

003.03 Administrator means an individual, partnership, corporation, or unincorporated association engaged by a risk management pool for the purposes of carrying out the policies established by the pool's governing board and to provide day-to-day management of the pool.

003.04 Department means Department of Insurance.

003.05 Director means Director of Insurance.

003.06 Dividend means a share of earned surplus allocated to each member participating in the pool.

003.07 Hazardous to the public shall mean that, based on its present or reasonably anticipated financial condition, a group self-insurance pool, although it may not yet be financially impaired or insolvent, is unlikely to be able to (a) meet obligations to policyholders with respect to known claims and reasonably anticipated claims or (b) pay other obligations in the normal course of business.

003.08 Pool shall mean self-insurance pool created under article 43 of Chapter 44 of the Nebraska Revised Statutes in which each member makes financial contribution for the payment of all losses incurred by any member which are protected against by the pool.

003.09 Qualified Actuary shall mean a person:

003.09A Who is a fellow or associate of the Society of Actuaries, a member of the American Academy of Actuaries, independent of the pool and its members, and independent of any insurance company electing to discount its reserves, and independent of any reinsurance company contracted with the pool; or

003.09B Who meets all of the following requirements:

003.09B(1) Has demonstrated to the Director that he or she is possessed of the educational background and experience necessary for the practice of actuarial science including, but not limited to, the evaluation of claim reserves;

003.09B(2) Is independent of the pool and its members, independent of any insurance company electing to discount its reserves, and independent of any reinsurance company contracted with the pool; and

003.09B(3) Has the prior written approval of the Director to sign claim reserve opinions required by this rule.

003.10 Service provider means a person or entity which provides services not provided by the Administrator, including but not limited to (a) claims adjustment, (b) loss control safety management, (c) compilation of statistics and the preparation of premium and loss reports, (d) preparation of other required self-insurance reports, (e) development of members' assessments and fees, and (f) administration of a claim fund.

003.11 Surplus shall mean the amount obtained by subtracting, from the admitted assets, actual liabilities, including any reserves which by law must be maintained.

004. Application for certificate of authority. A risk management pool organized pursuant to the Intergovernmental Risk Management Act may apply to the Director for a certificate of authority to provide group self-insurance to its members. A pool shall not accept contributions for group self-insurance coverage and shall not provide such insurance coverage to its members until the Director has issued the certificate of authority. The application shall be accompanied by an application filing fee of one thousand dollars, and shall include the pool's name, location of its principle office, date of organization, and the name and address of each member. The following information shall be submitted with the application, and shall specify the types of coverage involved, where applicable:

004.01 A copy of the agreement entered into for the purpose of establishing and operating a risk management pool as required by NEB.REV.STAT. § 44-4306;

004.02 A copy of the pool's articles of incorporation, articles of association and by-laws;

004.03 Disclosure of the lines of insurance coverage to be provided as specified under NEB.REV.STAT. § 44-4304;

004.04 Pro forma financial statements and projections for at least the first five (5) years of operation;

004.05 Historical and expected loss experience of the proposed members to the extent reasonably available;

004.06 Appropriate actuarial opinions by a qualified, independent actuary, including a determination of minimum premium or participation levels required to commence operations and to prevent the pool from being hazardous to the public;

~~004.07 A copy of the agreement entered into with any administrator or service provider and biographical information on such individuals or if an entity, the individuals providing the services for such entity;~~

~~004.08 Address in Nebraska where books and records of the pool will be maintained at all times;~~

~~004.09 Disclosure of proposed standard insurance, excess insurance and excess stop-loss reinsurance arrangements and a copy of such agreements as they become available;~~

~~004.10 Disclosure of member contribution levels and the criteria used to determine the contribution levels;~~

~~004.11 A copy of any insuring agreements, forms and certificates of insurance coverage to be issued by the pool to each member of the pool;~~

~~004.12 Disclosure of the extent to which initial pool funding will be raised through the issuance of bonds; and~~

~~004.13 Such other information as the Director may reasonably require.~~

~~005. Reserves. A risk management pool shall maintain the same reserves as required of a Nebraska domestic insurance company offering the same coverage as the group insurance offered by a pool to its members, except that a pool may discount claim reserves if the pool's annual report required under Section 011 is accompanied by a certified statement of opinion by a qualified actuary which accurately reflects the effect of discounting of claim reserves on the pool's financial condition. In the event a pool discounts its claim reserves, the certified actuarial opinion defined in this section shall include the following:~~

~~005.01 An assessment of the adequacy of the undiscounted reserves;~~

~~005.02 An assessment of the appropriateness of the assumed interest rate, considering at least the following:~~

~~005.02A Valuation basis of bonds;~~

~~005.02B Yield on assets; and~~

~~005.02C The match of asset maturities to corresponding liabilities.~~

~~005.03 An assessment of the appropriateness of the liabilities to surplus ratio of the company;~~

~~005.04 An assessment of the appropriateness of the anticipated payment schedule, considering at least the following:~~

~~005.04A The pools own paid claim development history to the extent relevant and credible;~~

~~005.04B To the extent that such history is not relevant or credible, the experience of other insurers after allowance for any differences in form of coverage, nature of risks insured, limits written or retention levels after excess stop-loss reinsurance; and~~

~~005.04C Timing of excess stop-loss reinsurance recoverables and, if applicable, any additional excess stop-loss reinsurance premiums that may become due.~~

~~005.05 A description of the formula(s) used for discounting, including any provision for adverse deviation;~~

~~005.06 An assessment of the appropriateness of the claim reserve to surplus ratio of the pool; and~~

~~005.07 Any other factors necessary to accurately reflect the effect of discounting on the financial condition of the pool or as required by the Director.~~

~~006. Dividends. A pool may not distribute dividends to its members until it has received approval by the Director. A pool may not declare or pay any dividends except from earned surplus, ascertained in accordance with statutory insurance accounting principles. In order to pay dividends to its members, the pool shall make application to the Director for approval, which application shall specify the date established for payment of the dividend, a statement as to whether the dividend is to be in cash or property and if in property, how valuation was determined, the dates and amounts of all previous dividends, financial statements as of the month preceding the application, a brief statement as to the effect of the proposed dividend upon the pool's reserves and the reasonableness of surplus in relation to the pool's outstanding liabilities, and the adequacy of the surplus relative to the pool's financial needs.~~

~~007. Surplus. A pool shall maintain adequate surplus and reserves and receive adequate financial contributions from its members in order to operate in a manner which is not hazardous to the public.~~

~~008. Investments. The surplus and other funds, or part thereof, of a pool shall be invested as authorized for investments by Nebraska domestic insurance companies offering the same coverage as the group insurance offered by a pool to its members.~~

009. Notice to Department.

~~009.01 A pool shall notify the Department 30 days in advance of any assessments to cure a deficiency and of any changes in:~~

~~009.01A Contribution levels;~~

~~009.01B Coverages offered by the pool;~~

~~009.01C Administrator or service provider and any material change in such agreements with the administrator or service provider;~~

~~009.01D The pool's articles of incorporation, articles of association or by-laws;~~

~~009.01E Any amendments to the agreement establishing in the pool;~~

~~009.01F Standard insurance, excess stop-loss insurance, and excess stop-loss reinsurance agreements; or~~

~~009.01G The extent to which pool funding will be raised through the issuance of bonds.~~

~~009.02 The notification shall be accompanied by a statement setting forth the effect of such change on the pool and its ability to operate in a manner which is not hazardous to the public. A copy of any amended documents shall be provided and accompanied by appropriate supporting opinions and information to the extent necessary and reasonably available, or requested by the Department.~~

~~009.03 Such notified changes shall become effective 30 days after submitted to the Department unless disapproved by the director. The Director shall disapprove any such notified change if as a result of such change the pool will not:~~

~~009.03A Have adequate surplus and reserves and receive adequate financial contributions from its members in order to operate in a manner which is not hazardous to the public; or~~

~~009.03B Satisfy the requirements of Nebraska law, this rule, the agreement establishing the pool, or the pool's by-laws.~~

~~010. Claims. A pool shall process and act upon claims in accordance with the guidelines applicable for domestic insurance companies.~~

~~011. Annual report of affairs and examinations.~~

~~011.01 Every pool shall make and file with the Department, on or before March 1 of each year, a report under oath of its affairs and operations during the last preceding calendar year, upon a form furnished by the Department. Upon application to and approval by the Director, an individual pool may make and file the report on or before a date other than March 1 for a different twelve-month period in order to correspond with the applicable fiscal year established by the pool. The report shall show all contributions received by it for membership in the pool during the previous calendar year. Such annual statements shall use insurance statutory accounting principles, and shall include an actuarial opinion on claim reserves, reserves on claims incurred but not reported, and loss adjusted expense reserves.~~

~~011.02 A pool discounting claim reserves shall disclose the discounting of claim reserves in its annual and other financial statements in a manner which will accurately reflect the effect of discounting of claim reserves on the pool's financial condition.~~

~~011.03 In addition to the annual report of affairs, every pool shall make and file such periodic reports on forms furnished by the Department as the Director may require.~~

~~011.04 The reasonable expenses for examination of the business affairs, records, and assets of each pool conducted by the Department pursuant to NEB.REV.STAT. § 44-4310(2) shall be fixed and determined by the Director. Each pool shall be responsible for the payment of the determined expenses to the Director within a reasonable time after the receipt of the statement for such expenses. The expenses shall be limited to a reasonable allocation for the salary of each examiner plus actual expenses.~~

~~012. Payment to Director; computation.~~

~~012.01 On or before March 1 of each year, every risk management pool shall pay to the Director of Insurance the amount required pursuant to NEB.REV.STAT. § 44-4320.~~

~~012.01A~~ A pool which has a scheme of operations that contemplates a return of a portion of the contributions of pool members without such members being claimants under the pool's insuring agreements may deduct such return contributions from the pool's contributions for the purpose of calculating the payment due to the Director of Insurance.

~~012.01B~~ A pool which has a scheme of operations that includes the purchase of standard insurance subject to premium tax under NEB. REV. STAT. § 77-908 or § 44-5506 may deduct the cost of such insurance from the pool's contributions for the purpose of calculating the payment due to the Director of Insurance.

~~012.02~~ The computation of payments shall be made on forms furnished by the Department of Insurance and shall be filed with the Department, together with a sworn statement by the pool's chief operating officer attesting to the accuracy of the computation. The Department shall furnish such forms to each pool prior to the end of the year for which such amount is payable together with any information relative to computation of the amount as may be necessary.

~~013. Termination of membership in the pool:~~

~~013.01~~ In order for a member to voluntarily terminate participation in the pool, such member shall give written notice of the desired termination date to the Department, the other pool members and the pool's administrator at least 90 days prior to the desired termination date. Within 30 days after receiving such notice, the pool's governing board shall submit a written report to the Department which:

~~013.01A~~ discloses whether the terminating member and remaining members of the pool have paid all contributions and assessments due the pool, have discharged all other obligations owed to the pool, and have complied with the laws of Nebraska, this rule, and the by-laws of the pool; and

~~013.01B~~ projects the effect on the pool due to the member's withdrawal from the pool.

~~013.02~~ A member of the pool may be involuntarily terminated from the pool as provided for in NEB. REV. STAT. § 44-4309(2).

~~014. Voluntary dissolution of the pool:~~

~~014.01~~ A pool shall not be voluntarily dissolved or cease to function unless the governing board obtains the approval of the Director and thereafter obtains the approval of the pool's members in accordance with the agreement establishing the pool and the pool's by-laws, which shall require a two-thirds majority vote. The governing board may submit a written application seeking the Director's approval to voluntarily dissolve, at least 90 days in advance of the proposed dissolution date, setting forth the following:

~~014.01A~~ Desired date of pool's dissolution;

~~014.01B~~ Resolution of the governing board to terminate the pool and seeking the Director's approval of such termination; and

~~014.01C~~ A plan of dissolution adopted by the governing board which sets forth the pool's arrangements for satisfying its obligations, such as but not limited to the insurance or

~~excess stop-loss reinsurance of its obligations with insurers under appropriate agreements filed with and approved by the Director, or such alternative arrangements which provide for the payment of all claims, liabilities and debts such as a contingency or trust fund for future claims and obligations. Such obligations shall include both known claims and expenses associated therewith and claims incurred but not reported and expenses associated therewith. Additionally, the plan shall provide for the distribution of any assets remaining after payment of claims, liabilities and debts and the return of any unearned premium contributions. The return of surplus contributions must be based on an equitable formula.~~

~~014.02 The Director shall, within 30 days from the date the application for voluntary dissolution was submitted to the Department, issue a written determination regarding the application to voluntarily dissolve, and if approved, the pool shall proceed by placing the matter before the pool members for a vote within 30 days after the approval of the Director.~~

~~014.03 The governing board of the pool shall certify the results of the vote to the Department and proceed accordingly.~~

~~015. Hearings. Administrative hearings initiated before the Department as a result of actions taken under the provision of the Act or this rule shall be subject to the provisions of the Administrative Procedure Act, NEB.REV.STAT. § 84-901 et seq. and Title 210, Nebraska Administrative Code, Chapter 26.~~

~~016. Severability clause. If any provisions of this rule, or the application thereof to any persons or circumstances, is held invalid, such invalidity shall not affect other provisions or application of this rule which can be given effect without the invalid portion or application, and to that end, the provisions of this rule are severable.~~

Title 210 – Department of Insurance

Chapter 85 (Repealed)

TITLE 210 -- NEBRASKA DEPARTMENT OF INSURANCE

CHAPTER 86 -- REGULATION TO IMPLEMENT THE AMERICAN RECOVERY AND REINVESTMENT ACT FOR PURPOSES OF CONTINUATION OF COVERAGE FOR SMALL GROUP INSURANCE

001 Purpose

The purpose of this regulation is to provide for the implementation of the American Recovery and Reinvestment Act of 2009, allowing for the premium subsidy for insureds who have been involuntarily terminated from employment when their employer has two but no more than twenty employees as authorized pursuant to the Nebraska Small Employer Health Insurance Availability Act.

002 Authority

This regulation is issued pursuant to the authority vested in the Director under Neb. Rev. Stat. §44-101.01, and §§44-5223 through 44-5267.

003 Applicability and Scope.

~~This regulation shall apply to individuals who are insured pursuant to the Nebraska Small Employer Health Insurance Availability Act and qualify as an assistance eligible individual pursuant to the American Recovery and Reinvestment Act of 2009, to employers who qualify under the Nebraska Small Employer Health Insurance Availability Act and are employers of assistance eligible individuals, and to insurers who insure assistance eligible employees, via the eligible employer under the Nebraska Small Employer Health Insurance Availability Act and who will also provide the 65% subsidy to the assistance eligible employee pursuant to the American Recovery and Reinvestment Act of 2009.~~

004 Additional Continuation Election

An extended election period is available to an individual who qualifies as an assistance eligible individual pursuant to the American Recovery and Reinvestment Act of 2009 and has been involuntarily terminated from employment between September 1, 2008 and thirty days after enactment of this regulation, provided the individual has failed to elect continuation coverage upon the qualifying event as provided in the American Recovery and Reinvestment Act of 2009. The assistance eligible individual shall be given a second chance to elect continuation of coverage as provided in this regulation. If the assistance eligible employee had received a notice from the insurer pursuant to the American Recovery and Reinvestment Act of 2009 between September 1, 2008 and May 1, 2009, and did not elect to continue coverage pursuant to the Nebraska Small Employer Health Insurance Availability Act, that employee is ineligible to enroll in the continuation of coverage program and receive the subsidy. The insurer shall, no later than thirty days following the enactment of this regulation, provide notice to assistance eligible individuals, as certified by the individual's employer, of the right to elect coverage pursuant to this section. An assistance eligible individual electing continuation pursuant to this section must make the election to the insurer within thirty days following receipt of the notice.

005 Notification Requirements

The insurer shall, upon receipt of certification from the employer of an assistance eligible individual's notice of involuntary termination, provide notice of the right to elect coverage, pursuant to section 004 of this regulation and as required by the American Recovery and Reinvestment Act of 2009, no later than thirty days after enactment of this regulation. Election shall be made by an assistance eligible individual to the insurer within thirty days following receipt of the notice. The insurer shall require the social security number of an individual applying for continuation coverage pursuant to this regulation and the appropriate premium amount to the insurer.

006 Period of Extended Election Coverage

Continuation of coverage elected pursuant to §004 of this regulation commences with the first period of coverage beginning on or after May 1, 2009, and may extend for the period as though the election had been made pursuant to Neb. Rev. Stat. §44-1640 through §44-1642, inclusive, upon the date of the qualifying event.

007 Treatment of Extended Election Coverage

Any person electing continuation pursuant to §004 of this regulation is considered as having continuing coverage from the time of the qualifying event and shall be disregarded for purposes of determining the sixty three day periods referred to in section 701(c)(2) of the Employee Retirement Income Security Act of 1974, section 9801(c)(2) of the Internal Revenue Code of 1986, and section 2701(c)(2) of the Public Health Service Act.

008 Premium Subsidy

An individual electing continuation of coverage under section 004 shall be entitled to the premium subsidy as permitted in the American Recovery and Reinvestment Act of 2009 so long as the individual qualifies as an assistance eligible individual as defined in the American

~~Recovery and Reinvestment Act of 2009, and meets the requirements of the Nebraska Small Employer Health Insurance Availability Act and this regulation. This subsidy shall commence with the first period of assisted continuation of coverage beginning on or after May 1, 2009 and shall end upon the earliest date provided for under Neb. Rev. Stat. §44-1640 et. seq., or the date the individual is no longer eligible for premium reduction under the American Recovery and Reinvestment Act of 2009. Premiums for the continuation coverage shall be paid by the assistance eligible individual to the insurer.~~

Title 210 – Department of Insurance

Chapter 86 (Repealed)