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INSURANCE CODE - INS

DIVISION 2. CLASSES OF INSURANCE [1880 - 12880.8] (*Division 2 enacted by Stats. 1935, Ch. 145.*)

PART 2. LIFE AND DISABILITY INSURANCE [10110 - 11549] (*Part 2 enacted by Stats. 1935, Ch. 145.*)

CHAPTER 8. Small Employer Health Insurance [10700 - 10752.8] (*Heading of Chapter 8 renumbered from Chapter 14 (as added by Stats. 1992, Ch. 1128) by Stats. 1993, Ch. 113, Sec. 6.*)

ARTICLE 3. Voluntary Reinsurance Mechanism [10719 - 10729] (*Article 3 added by Stats. 1992, Ch. 1128, Sec. 10.*)

10719. The California Small Group Reinsurance Fund is hereby authorized to be created solely to allow carriers to share in financing the cost of covering high risk small employer groups. It shall be organized as a nonprofit corporation, which consists of all small employer carriers and small employer health care service plans which elect to participate in the fund pursuant to subdivision (d) of Section 10720. These carriers may cede that portion of risk to the fund that the fund has agreed to accept.

(*Added by Stats. 1992, Ch. 1128, Sec. 10. Effective January 1, 1993. Operative July 1, 1993, by Sec. 15 of Ch. 1128.*)

10719.1. Any person or entity subject to the requirements of this chapter shall comply with the standards set forth in Chapter 7 (commencing with Section 3750) of Part 1 of Division 9 of the Family Code and Section 14124.94 of the Welfare and Institutions Code.

(*Amended by Stats. 1996, Ch. 1062, Sec. 25. Effective January 1, 1997.*)

10720. (a) The fund shall be governed by a board of directors, which shall initially be elected by small employer carriers and small employer health care service plans. The initial board shall be elected by a weighted vote based on net health insurance premiums derived from the state in the previous calendar year in the small employer market. The initial board shall consist of at least five and not more than nine representatives of small employer carriers and small employer health care service plans.

(b) Within 180 days of the election of the initial board, the board shall adopt a plan of operation which provides for the reasonable and equitable administration of the fund.

(c) The plan of operation shall, among other things, do all of the following:

- (1) Establish procedures to assure the fair, reasonable, and equitable administration of the fund and provide for the sharing of fund gains or losses on an equitable and proportionate basis.
- (2) Establish procedures for handling and accounting of program assets and moneys.
- (3) Establish terms of office and procedures for filling vacancies on the board.
- (4) Establish procedures for reinsuring risks in accordance with the provisions of this chapter.
- (5) Establish procedures for collecting assessments from members to provide for claims reinsured by the fund and for administrative expenses incurred or estimated to be incurred during the period for which the assessment is made.

(d) Within 60 days of the board's adoption of the plan of operation, small employer carriers and small employer health care service plans shall elect to be either a participant or nonparticipant of the fund. All participants of the fund shall be members of the fund, and only members of the fund shall continue to be members of the board. Members may elect new members of the board, if necessary, to replace initial board members who elect to be nonparticipants of the fund, subject to subdivision (a). The election shall be binding for a three-year period. Thereafter, each small employer carrier shall notify the board 90 days prior to the end of the election period whether or not they will be a member of the fund.

(*Added by Stats. 1992, Ch. 1128, Sec. 10. Effective January 1, 1993. Operative July 1, 1993, by Sec. 15 of Ch. 1128.*)

10720.1. The fund shall have the general powers and authority granted under the laws of California to insurance companies and health care service plans licensed to transact business, except the power to issue health benefit plans directly to either groups or individuals. In addition, thereto, the fund shall have the specific authority to:

- (a) Enter into contracts as are necessary or proper to carry out the provisions and purposes of this chapter, including the authority to enter into contracts with similar programs of other states for the joint performance of common functions or with persons or other organizations for the performance of administrative functions.
- (b) Sue or be sued, including taking any legal actions necessary or proper for recovering any assessments and penalties for, on behalf of, or against the fund.
- (c) Take any legal action necessary to avoid the payment of improper claims against the fund.
- (d) Issue reinsurance policies, in accordance with the requirements of this chapter.
- (e) Establish rules, conditions, and procedures pertaining to the reinsurance of members' risk by the fund.
- (f) Establish actuarial functions as appropriate for the operation of the fund.
- (g) Assess members of the fund and take advance interim assessments as may be reasonable and necessary for organizational and interim operating expenses. Any interim assessments shall be credited as offsets against any regular assessments due following the close of the fiscal year.
- (h) Appoint from among fund members appropriate legal, actuarial, and other committees as necessary to provide technical assistance in the operation of the fund, policy and contract design, and any other function within the authority of the fund.
- (i) Borrow money to effect the purposes of the fund. Any notes or other evidence of indebtedness of the fund not in default shall be legal investments for fund members and may be carried as admitted assets.

(Added by Stats. 1992, Ch. 1128, Sec. 10. Effective January 1, 1993. Operative July 1, 1993, by Sec. 15 of Ch. 1128.)

10721. The fund shall provide for the financing of its reinsurance and operating costs, including actuarially sound reserves for unpaid losses, by charging members a reinsurance contribution and, as necessary, making assessments and collections from members in proportion to their participation in the program. Neither the state or any officer, agent, or employee shall be liable for any costs of the fund, or for any debts or liabilities incurred by the fund.

(Added by Stats. 1992, Ch. 1128, Sec. 10. Effective January 1, 1993. Operative July 1, 1993, by Sec. 15 of Ch. 1128.)

10722. If assessments exceed actual losses and administrative expenses of the fund, the excess shall be held at interest and used by the fund to offset future losses or to reduce fund premiums. As used in this paragraph, "future losses" includes reserves for incurred but not reported claims.

(Added by Stats. 1992, Ch. 1128, Sec. 10. Effective January 1, 1993. Operative July 1, 1993, by Sec. 15 of Ch. 1128.)

10723. Any unsatisfied net liability or outstanding assessment owed by an insolvent member participating in the fund shall be assumed by and apportioned among the remaining members in the fund in the same manner in which assessments are levied by the fund. The fund shall have all rights allowed by law on behalf of the remaining members against the insolvent member for sums due the fund.

(Added by Stats. 1992, Ch. 1128, Sec. 10. Effective January 1, 1993. Operative July 1, 1993, by Sec. 15 of Ch. 1128.)

10724. Carriers choosing to participate shall comply with all requirements for participation established by the fund.

(Added by Stats. 1992, Ch. 1128, Sec. 10. Effective January 1, 1993. Operative July 1, 1993, by Sec. 15 of Ch. 1128.)

10725. The fund's board of directors shall establish the rules, conditions, and procedures pertaining to the reinsurance of members' risks by the fund.

(Added by Stats. 1992, Ch. 1128, Sec. 10. Effective January 1, 1993. Operative July 1, 1993, by Sec. 15 of Ch. 1128.)

10726. Nothing in this article relieves members of participating in the fund from complying with the underwriting and rating provisions included in Article 1 (commencing with Section 10700) and Article 2 (commencing with Section 10702) in the case of small employer carriers, or in Article 3.1 (commencing with Section 1357) and with Article 3.14 (commencing with Section 1357.50) of the Health and Safety Code, in the case of small employer health care service plans.

(Added by Stats. 1992, Ch. 1128, Sec. 10. Effective January 1, 1993. Operative July 1, 1993, by Sec. 15 of Ch. 1128.)

10727. The fund shall be exempt from any and all taxes.

(Added by Stats. 1992, Ch. 1128, Sec. 10. Effective January 1, 1993. Operative July 1, 1993, by Sec. 15 of Ch. 1128.)

10728. For purposes of agreements entered into pursuant to this article, the fund, and its officers, directors, agents, and employees shall have no liability for any damages other than actual damages.

(Added by Stats. 1992, Ch. 1128, Sec. 10. Effective January 1, 1993. Operative July 1, 1993, by Sec. 15 of Ch. 1128.)

10729. The fund shall establish rules, conditions, and procedures relating to the indemnification of any person or member of the fund made a party to any claim, action, suit, or proceeding because the person or member served on the board of directors of the fund, or on a committee, or was an officer or employee of the fund, provided, such rules, conditions, and procedures do not authorize indemnification in excess of that expressly permitted by Section 317 of the Corporations Code.

(Added by Stats. 1992, Ch. 1128, Sec. 10. Effective January 1, 1993. Operative July 1, 1993, by Sec. 15 of Ch. 1128.)