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**INSURANCE CODE - INS**

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

**PART 3. LIABILITY, WORKERS' COMPENSATION, AND COMMON CARRIER LIABILITY INSURANCE [11550 - 11895]** (

*Heading of Part 3 amended by Stats. 1979, Ch. 373.* )

**CHAPTER 4. The State Compensation Insurance Fund [11770 - 11886.2]** ( *Chapter 4 enacted by Stats. 1935, Ch. 145.* )

**ARTICLE 7. Transfer of Ownership [11885 - 11886.2]** ( *Article 7 added by Stats. 2009, 4th Ex. Sess., Ch. 12, Sec. 21.* )

**11885.** (a) The Director of Finance is hereby authorized to act as agent for the state and, in that capacity, to sell a portion of, or otherwise obtain value for, the State Compensation Insurance Fund's assets and liabilities. That authorized sale or other disposition shall be transacted with an entity that the director, in consultation with the State Treasurer, determines will provide the best combination of each of the following:

(1) The highest price for the State Compensation Insurance Fund's workers' compensation insurance assets and liabilities or the best value to the General Fund, or both.

(2) The greatest security for the payment of the purchase price.

(3) Demonstrated competence and professional qualifications for the continued satisfactory performance of the workers' compensation insurance services offered for sale or other disposition.

(b) Prior to releasing any Notice of Request for Qualifications, a majority of the State Compensation Insurance Fund Board of Directors shall concur that the assets and liabilities that are identified by the Director of Finance, in consultation with the State Treasurer, in subdivision (a) are appropriate for sale or other disposition.

(c) Notwithstanding any other law, the process for sale or other disposition shall include the steps the director, in consultation with the State Treasurer, deems necessary or convenient to achieve the ends set forth in this section. The process shall include, but not necessarily be limited to, all of the following:

(1) The satisfaction of criteria established by the director, in consultation with the State Treasurer, consistent with achieving the best price or other value for those workers' compensation insurance assets and liabilities. These criteria shall include any pertinent requirements of the State Compensation Insurance Fund Board of Directors.

(2) A Notice of Request for Qualifications sent by the Director of Finance to each firm currently providing workers' compensation insurance coverage to California employers and any entity proposed by the State Compensation Insurance Fund Board of Directors. In addition, it shall be advertised in the State Contracts Register pursuant to Sections 14827.1 and 14827.2 of the Government Code. This notice shall include a description of the workers' compensation insurance program, a summary description of the workers' compensation insurance assets and liabilities offered for sale or other disposition, and a description of the due diligence review process to provide potential purchasers with further information regarding the workers' compensation insurance assets and liabilities offered for sale or other disposition, the selection criteria on which the transaction will be based, the submission requirements and deadlines, and a Department of Finance contact name and telephone number for more information. A copy of the Notice of Request for Qualifications shall be provided to the Joint Legislative Budget Committee within seven days of its release.

(3) The evaluation by the director, in consultation with the State Treasurer, of all statements timely submitted in response to the Notice of Request for Qualifications sent pursuant to paragraph (2), using the criteria contained in the notice, and, based on those statements, the establishment of a qualified participant list.

(4) For purposes of Section 11772, any action by the board of directors related to any transaction contemplated by this article, including, but not limited to, any approvals of such transactions, shall be deemed to be in good faith.

(5) The Director of Finance shall notify the Joint Legislative Budget Committee in writing within seven days of completing a sale pursuant to subdivision (a).

*(Added by Stats. 2009, 4th Ex. Sess., Ch. 12, Sec. 21. Effective July 28, 2009.)*

**11885.3.** In order to accomplish the purpose of this article, the State Compensation Insurance Fund and its board of directors shall participate fully in good faith with the Director of Finance, and the Director of Finance shall act in good faith in carrying out the duties prescribed by this article.

*(Added by Stats. 2009, 4th Ex. Sess., Ch. 12, Sec. 21. Effective July 28, 2009.)*

**11885.5.** Notwithstanding any other law, the approval of neither the Attorney General, nor the Insurance Commissioner, nor the Director of General Services is required for execution and implementation of the sale or other disposition of the assets and liabilities of the State Compensation Insurance Fund or any other agreement authorized by this article.

*(Added by Stats. 2009, 4th Ex. Sess., Ch. 12, Sec. 21. Effective July 28, 2009.)*

**11885.7.** (a) The Director of Finance shall deposit all proceeds of any sale of, or any funds achieved through any other disposition of, the State Compensation Insurance Fund's workers' compensation insurance assets and liabilities under this article, less any costs related to that transaction, into the General Fund.

(b) The proceeds of any sale of, or any funds achieved through any other disposition of, the State Compensation Insurance Fund's workers' compensation insurance assets and liabilities are not "proceeds of taxes" as that term is used in subdivision (c) of Section 8 of Article XIII B of the California Constitution. The disbursement of these proceeds is not subject to the limitations imposed by that article.

*(Added by Stats. 2009, 4th Ex. Sess., Ch. 12, Sec. 21. Effective July 28, 2009.)*

**11885.9.** (a) Notwithstanding any other law, the Director of Finance is authorized to enter into agreements with firms or individuals to act as advisers to the state in the transactions contemplated by this article. Section 14838 of the Government Code and Article 4 (commencing with Section 10335) of Chapter 2 of Part 2 of Division 2 of the Public Contract Code do not apply to any agreement entered into by the director with advisers pursuant to this section.

(b) Notwithstanding any other law, the Director of Finance is also authorized to enter into legal services agreements to obtain specialized legal advice related to the transactions contemplated by this article. Section 11040 of the Government Code and Section 6072 of the Business and Professions Code shall not apply to the legal services agreements entered into by the director pursuant to this section.

*(Added by Stats. 2009, 4th Ex. Sess., Ch. 12, Sec. 21. Effective July 28, 2009.)*

**11886.** (a) The Director of Finance, in consultation with the State Treasurer, shall select firms or individuals to provide advisory services based on demonstrated competence and professional qualifications necessary for the satisfactory performance of the services required and in the manner described in this section.

(b) The Director of Finance, in consultation with the State Treasurer, shall establish selection criteria for selecting advisers. The criteria may include, but are not necessarily limited to, factors such as professional excellence, demonstrated competence, specialized experience in performing similar services, education and experience of key personnel to be assigned, staff capability, ability to meet schedules, nature and quality of similar completed work of the firm or individual, reliability and continuity of the firm or individual, and other considerations deemed by the director, in consultation with the State Treasurer, to be relevant and necessary to the performance of advisory services.

(c) In order to select advisers, the director shall publish a Notice of Request for Qualifications in the State Contracts Register pursuant to Sections 14827.1 and 14827.2 of the Government Code. The notice shall include a description of the advisory services required, the selection criteria on which the contract award will be based, submission requirements and deadlines, and a Department of Finance contact name and telephone number for more information. A copy of the Notice of Request for Qualifications shall be provided to the Joint Legislative Budget Committee within seven days of publication in the State Contracts Register.

(d) (1) After the final response date stated in the Notice of Request for Qualifications, the Director of Finance, in consultation with the State Treasurer, shall review the responses submitted, and shall evaluate them using the criteria contained in the notice. The director shall rank, in order of preference based on the criteria contained in the notice, the firm or individuals determined to be qualified to perform the required services.

(2) The Director of Finance, in consultation with the State Treasurer, may interview any of the qualified firms or individuals regarding the experience and qualifications of those firms or individuals, as well as anticipated concepts and the benefits of alternative methods of furnishing the required services.

(e) (1) Following the interviews, if any, held pursuant to subdivision (d), the Director of Finance shall adjust the ranking of the qualified individuals or firms to reflect those firms or individuals deemed to be the most highly qualified to perform the required services.

(2) The Director of Finance, in consultation with the State Treasurer, shall enter into negotiations with the firm or individual most highly ranked pursuant to paragraph (1). If negotiations are concluded successfully, the director shall enter into a contract. If the director, in his or her sole discretion, concludes that the negotiations are unsuccessful, the director shall terminate the negotiations, and begin new negotiations, in consultation with the State Treasurer, with the other firms or individuals ranked pursuant to paragraph (1) in order of their ranking, and either contract with or terminate negotiations with each next most highly ranked firm or individual.

(3) If, after pursuing the negotiation process set forth in paragraph (2), the Director of Finance has been unable to negotiate a satisfactory contract at fair and reasonable compensation, the director may reinstate the selection process prescribed in this section, commencing with the issuance of a new Notice of Request for Qualifications.

(4) The Director of Finance shall notify the Joint Legislative Budget Committee in writing within seven days of entering into a contract with an individual or firm for advisory services.

(f) This section shall not apply to the selection of a legal services adviser.

*(Added by Stats. 2009, 4th Ex. Sess., Ch. 12, Sec. 21. Effective July 28, 2009.)*

**11886.2.** (a) The Director of Finance shall notify the Joint Legislative Budget Committee in writing upon his or her determination that neither the sale nor any other transaction authorized by this article is anticipated to achieve the purposes of this article or upon the completion of a disposition of State Compensation Insurance Fund assets and liabilities pursuant to this article.

(b) The Director of Finance shall cease those activities he or she is authorized or directed to undertake pursuant to this article upon the earlier of either:

(1) The 30th day following written notice by the director to the Chairperson of the Joint Legislative Budget Committee pursuant to subdivision (a).

(2) January 10, 2012.

*(Added by Stats. 2009, 4th Ex. Sess., Ch. 12, Sec. 21. Effective July 28, 2009.)*