

1 ~~be credited toward the tax paid by self insurers under Article~~
2 ~~8B of Chapter 105 of the General Statutes. two percent (2%)~~
3 ~~assessment.~~ For the purpose of making the assessments
4 authorized by this subsection and subsections (c) and (d) of this
5 section, the Secretary of Revenue shall provide to the
6 Association the self-insurer premium and payroll information as
7 determined under G.S. 105-228.5(b), (b1) and (c), and the
8 Commissioner shall provide to the Association the group
9 self-insurer premium information reported to the Commissioner
10 under G.S. 58-47-75 and G.S. 58-2-165.

- 11 b. Each member self-insurer shall be notified of the assessment no
12 later than 30 days before it is due.
- 13 c. If a self-insurer is a member of the Association for less than a
14 full calendar year, the annual gross premiums shall be adjusted
15 by that portion of the year the self-insurer is not a member of
16 the Association.
- 17 d. If application of the contribution rates referenced in
18 sub-subdivision a. of this subdivision would produce an amount
19 in excess of the five million dollar (\$5,000,000) limits of the
20 fund, an equitable proration may be made; provided that every
21 self-insurer that becomes a member of the Association shall pay
22 an initial assessment, in an amount established by the Board,
23 regardless of the size of the fund at the time the member joins
24 the Association."

25 **SECTION 2.** G.S. 97-133(a)(4) reads as rewritten:

26 "(4) Be obligated to the extent of covered claims occurring prior to the
27 determination of the member self-insurer's insolvency, or occurring
28 after such determination but prior to the obtaining by the self-insurer
29 of workers' compensation insurance as otherwise required under this
30 Chapter. ~~The Association shall pay claims against a self insurer that~~
31 ~~are not or have not been paid as a result of a determination of~~
32 ~~insolvency or the institution of bankruptcy or receivership proceedings~~
33 ~~that occurred prior to the effective date of this Article."~~

34 **SECTION 3.** G.S. 97-185 reads as rewritten:

35 "**§ 97-185. Deposits or surety bond. Deposits; surety bonds; letters of credit.**

36 (a) Every self-insurer shall deposit with the Commissioner an amount ~~equal to~~
37 ~~twenty five percent (25%)~~ not less than fifty percent (50%) of the self-insurer's total
38 undiscounted outstanding claim liability per the most recent certification from a
39 qualified actuary as required by G.S. 97-180(b), but not less than five hundred thousand
40 dollars (\$500,000), or such other greater amount as the Commissioner prescribes based
41 on, but not limited to, the financial condition of the self-insurer and the risk retained by
42 the self-insurer.

1 ~~(b) A self insurer organized and authorized before the effective date of this~~
2 ~~section shall have 24 months from the effective date of this section to comply with this~~
3 ~~section.~~

4 **(b1)** Notwithstanding subsection (a) of this section, member self-insurers with a
5 debt rating of BBB or better from Standard and Poor's Rating Service, a division of
6 McGraw Hill, Inc., or an equivalent rating from another national rating agency shall
7 deposit with the Commissioner an amount not less than twenty-five percent (25%) of
8 the self-insurer's total undiscounted outstanding claim liability per the most recent
9 certification from a qualified actuary as required by G.S. 97-180(b), but not less than
10 five hundred thousand dollars (\$500,000). The Commissioner shall consider and may, in
11 the Commissioner's discretion, increase or reduce the deposit to a greater or lesser
12 percentage of the member self-insurer's claims liability based on the financial strength
13 of the self-insurer and other financial information submitted by the self-insurer.

14 (c) Deposits received, changes to existing deposits, or deposits exchanged after
15 the effective date of this section, shall comprise one or more of the following:

- 16 (1) Interest-bearing bonds of the United States of America.
- 17 (2) Interest-bearing bonds of the State of North Carolina, or of its cities or
18 counties.
- 19 (3) Certificates of deposit issued by any solvent bank domesticated in the
20 State of North Carolina that have a maturity of one year or greater.
- 21 (4) Surety bonds in a form acceptable to the Commissioner and issued by
22 a corporate surety. A surety bond deposited pursuant to this subsection
23 shall require that the surety reimburse the Commissioner, or his
24 successors, assigns, or transferees, for any costs incurred in the
25 collection of the proceeds of the surety bond, including reasonable
26 attorneys' fees, and any costs incurred in administering the insolvent
27 self-insurer's workers' compensation claims.
- 28 (4a) Irrevocable letters of credit in a form acceptable to the Commissioner
29 issued by a bank acceptable to the Commissioner. An irrevocable letter
30 of credit deposited pursuant to this subsection shall require that the
31 bank reimburse the Commissioner, or his successor, assigns, or
32 transferees for any costs incurred in the collection of the proceeds of
33 the letter of credit, including reasonable attorneys' fees.
- 34 (4b) The reimbursement of attorneys' fees and collections cost provided for
35 in subdivisions (4) and (4a) of this subsection shall be no greater than
36 fifteen percent (15%) of the penal amount of the bond and shall not
37 come from the proceeds of the bond or the letter of credit but shall be
38 in addition to the proceeds of the bond or the letter of credit.
- 39 (5) Any other investments that are approved by the Commissioner.

40 (d) All bonds or securities that are posted as a security deposit shall be valued
41 annually at market value. If market value is less than face value, the Commissioner may
42 require the self-insurer to post additional securities. In making this determination, the
43 Commissioner shall consider the self-insurer's financial condition, the amount by which

1 market value is less than face value, and the likelihood that the securities will be needed
2 to provide benefits.

3 (e) Securities deposited under this section shall be assigned to the Commissioner,
4 the Commissioner's successors, assigns, or trustees, on a form prescribed by the
5 Commissioner in a manner that renders the securities negotiable by the Commissioner.
6 If a self-insurer is deemed by the Commissioner to be in a hazardous financial
7 condition, the Commissioner may sell or collect, or both, such amounts that will yield
8 sufficient funds to meet the self-insurer's obligations under the Act. In the case of a
9 letter of credit, the Commissioner may draw the full amount of a letter of credit if the
10 letter of credit is not renewed within 90 days prior to its expiration or at any time that
11 the bank issuing the letter of credit is no longer acceptable to the Commissioner. Interest
12 accruing on any negotiable security deposited under this Article shall be collected and
13 transmitted to the self-insurer if the self-insurer is not in a hazardous financial condition.

14 (f) No judgment creditor, other than a claimant entitled to benefits under the Act,
15 may levy upon any deposits made under this section.

16 (g) Securities held by the Commissioner under this section may be exchanged or
17 replaced by the self-insurer with other securities of like nature and amount as long as
18 the self-insurer is not in a hazardous financial condition. No release shall be effectuated
19 until replacement securities or bonds of an equal value have been substituted. Any
20 surety bond may be exchanged or replaced with another surety bond that meets the
21 requirements of this section if 90 days' advance written notice is given to the
22 Commissioner. If a self-insurer ceases to self-insure or desires to replace securities with
23 an acceptable surety bond or bonds, the self-insurer shall notify the Commissioner, and
24 may recover all or a portion of the securities deposited with the Commissioner upon
25 posting instead an acceptable special release bond issued by a corporate surety in an
26 amount equal to the total value of the securities. The special release bond shall cover all
27 existing liabilities under the Act plus an amount to cover future loss development and
28 shall remain in force until all obligations under the Act have been discharged fully.

29 (h) If a self-insurer ceases to self-insure, no deposits shall be released by the
30 Commissioner until the self-insurer has discharged fully all of the self-insurer's
31 obligations under the Act.

32 (i) An endorsement to a surety bond shall be filed with the Commissioner within
33 90 days after the effective date of the endorsement."

34 **SECTION 4.** Effective January 1, 2005, G.S. 97-185(a), as amended in
35 Section 3 of this act, reads as rewritten:

36 "(a) Every self-insurer shall deposit with the Commissioner an amount ~~not less~~
37 ~~than fifty percent (50%)~~ not less than seventy-five percent (75%) of the self-insurer's
38 total undiscounted outstanding claim liability per the most recent certification from a
39 qualified actuary as required by G.S. 97-180(b), but not less than five hundred thousand
40 dollars (\$500,000), or such other greater amount as the Commissioner prescribes based
41 on, but not limited to, the financial condition of the self-insurer and the risk retained by
42 the self-insurer."

43 **SECTION 5.** Effective January 1, 2006, G.S. 97-185(a), as amended in
44 Sections 3 and 4 of this act, reads as rewritten:

1 "(a) Every self-insurer shall deposit with the Commissioner an amount ~~not less~~
2 ~~than seventy five percent (75%)~~ not less than one hundred percent (100%) of the
3 self-insurer's total undiscounted outstanding claim liability per the most recent
4 certification from a qualified actuary as required by G.S. 97-180(b), but not less than
5 five hundred thousand dollars (\$500,000), or such other greater amount as the
6 Commissioner prescribes based on, but not limited to, the financial condition of the
7 self-insurer and the risk retained by the self-insurer."

8 **SECTION 6.** G.S. 97-141 reads as rewritten:

9 "**§ 97-141. Stay of proceedings.**

10 All claims or proceedings under this Chapter to which the insolvent member
11 self-insurer is a party either before the Industrial Commission or a court in this State and
12 the running of all time periods against either the insolvent member self-insurer or the
13 Association under this Chapter shall be stayed for 60 days from the later of the date of
14 notice to the Association of the insolvency or the date the Association is notified of a
15 claim or proceeding under this Chapter in order to permit the Association to investigate,
16 prosecute, or defend properly any petition, claim, or appeal under this Chapter, provided
17 that the payment of weekly compensation for incapacity is made whenever time periods
18 or proceedings affecting the payment of weekly compensation are stayed."

19 **SECTION 7.** Section 3 of this act becomes effective January 1, 2004.
20 Section 4 of this act becomes effective January 1, 2005. Section 5 of this act becomes
21 effective January 1, 2006. Section 6 of this act is effective when this act becomes law
22 and applies to claims filed on or after that date. The remainder of this act is effective
23 when this act becomes law and applies to assessments made on or after that date.