

Part 8

Self-Insurance and Purchase of Liability Insurance by Governmental Entities

63G-7-801 Insurance -- Self-insurance or purchase of liability insurance by governmental entity authorized -- Establishment of trust accounts for self-insurance.

- (1) Any governmental entity within the state may self-insure, purchase commercial insurance, or self-insure and purchase excess commercial insurance in excess of the statutory limits of this chapter against:
 - (a) any risk created or recognized by this chapter; or
 - (b) any action for which a governmental entity or its employee may be held liable.
- (2)
 - (a) In addition to any other reasonable means of self-insurance, a governmental entity may self-insure with respect to specified classes of claims by establishing a trust account.
 - (b) In creating the trust account, the governmental entity shall ensure that:
 - (i) the trust account is managed by an independent private trustee; and
 - (ii) the independent private trustee has authority, with respect to claims covered by the trust, to:
 - (A) expend both principal and earnings of the trust account solely to pay the costs of investigation, discovery, and other pretrial and litigation expenses including attorneys' fees; and
 - (B) pay all sums for which the governmental entity may be adjudged liable or for which a compromise settlement may be agreed upon.
 - (c) Notwithstanding any law to the contrary, the trust agreement between the governmental entity and the trustee may authorize the trustee to:
 - (i) employ counsel to defend actions against the entity and its employees;
 - (ii) protect and safeguard the assets of the trust;
 - (iii) provide for claims investigation and adjustment services;
 - (iv) employ expert witnesses and consultants; and
 - (v) provide other services and functions that are necessary and proper to carry out the purposes of the trust.
 - (d) The money and interest earned on the trust fund may be invested by following the procedures and requirements of Title 51, Chapter 7, State Money Management Act, and are subject to audit by the state auditor.

Renumbered and Amended by Chapter 382, 2008 General Session

63G-7-802 Insurance -- Liability insurance -- Government vehicles operated by employees outside scope of employment.

- (1) A governmental entity that owns vehicles driven by an employee of the governmental entity with the express or implied consent of the entity, but which, at the time liability is incurred as a result of an automobile accident, is not being driven and used within the course and scope of the driver's employment is, subject to Subsection (2), considered to provide the driver with the insurance coverage required by Title 41, Chapter 12a, Financial Responsibility of Motor Vehicle Owners and Operators Act.
- (2) The liability coverages considered provided are the minimum limits under Section 31A-22-304.

Renumbered and Amended by Chapter 382, 2008 General Session

63G-7-803 Liability insurance -- Construction of policy not in compliance with act.

- (1) If any insurance policy, rider, or endorsement issued after June 30, 2004 that was purchased to insure against any risk that may arise as a result of the application of this chapter contains any condition or provision not in compliance with the requirements of this chapter, that policy, rider, or endorsement is not invalid, but shall be construed and applied according to the conditions and provisions that would have applied had the policy, rider, or endorsement been in full compliance with this chapter, provided that the policy is otherwise valid.
- (2) If any insurance policy, rider, or endorsement issued after June 30, 1966 and before July 1, 2004 that was purchased to insure against any risk that may arise as a result of the application of this chapter contains any condition or provision not in compliance with the requirements of the chapter, that policy, rider, or endorsement is not invalid, but shall be construed and applied according to the conditions and provisions that would have applied had the policy, rider, or endorsement been in full compliance with this chapter, provided that the policy is otherwise valid.

Renumbered and Amended by Chapter 382, 2008 General Session

63G-7-804 Liability insurance -- Methods for purchase or renewal.

- (1) Except as provided in Subsection (2), a contract or policy of insurance may be purchased or renewed under this chapter only upon public bid to be let to the lowest and best bidder.
- (2) The purchase or renewal of insurance by the state shall be conducted in accordance with the provisions of Title 63G, Chapter 6a, Utah Procurement Code.

Amended by Chapter 347, 2012 General Session

63G-7-805 Liability insurance -- Insurance for employees authorized -- No right to indemnification or contribution from governmental agency.

- (1)
 - (a) A governmental entity may insure any or all of its employees against liability, in whole or in part, for injury or damage resulting from an act or omission occurring during the performance of an employee's duties, within the scope of employment, or under color of authority, regardless of whether or not that entity is immune from suit for that act or omission.
 - (b) Any expenditure for that insurance is for a public purpose.
 - (c) Under any contract or policy of insurance providing coverage on behalf of a governmental entity or employee for any liability defined by this section, regardless of the source of funding for the coverage, the insurer has no right to indemnification or contribution from the governmental entity or its employee for any loss or liability covered by the contract or policy.
- (2) Any surety covering a governmental entity or its employee under any faithful performance surety bond has no right to indemnification or contribution from the governmental entity or its employee for any loss covered by that bond based on any act or omission for which the governmental entity would be obligated to defend or indemnify under the provisions of Section 63G-7-902.

Renumbered and Amended by Chapter 382, 2008 General Session