

**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