

EMPLOYERS' REINSURANCE FUND AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: James A. Dunnigan

Senate Sponsor: Karen Mayne

LONG TITLE

Committee Note:

The Business and Labor Interim Committee recommended this bill.

General Description:

This bill modifies provisions related to the Employers' Reinsurance Fund.

Highlighted Provisions:

This bill:

- ▶ provides that after the state pays all liabilities to be paid from the Employers' Reinsurance Fund, the Division of Finance shall transfer any remaining assets to the Uninsured Employers' Fund; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

34A-2-206, as last amended by Laws of Utah 2018, Chapter 156

34A-2-701, as last amended by Laws of Utah 2009, Chapter 85

34A-2-702, as last amended by Laws of Utah 2018, Chapter 207

34A-2-704, as last amended by Laws of Utah 2018, Chapter 207



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Be it enacted by the Legislature of the state of Utah:

Section 1. Section **34A-2-206** is amended to read:

**34A-2-206. Furnishing information to division -- Employers' annual report --
Rights of division -- Examination of employers under oath -- Penalties.**

(1) (a) Every employer shall furnish the division, upon request, all information required by it to carry out the purposes of this chapter and Chapter 3, Utah Occupational Disease Act.

(b) In the month of July of each year every employer shall prepare and mail to the division a statement containing the following information:

(i) the number of persons employed during the preceding year from July 1, to June 30, inclusive;

(ii) the number of the persons employed at each kind of employment;

(iii) the scale of wages paid in each class of employment, showing the minimum and maximum wages paid; and

(iv) the aggregate amount of wages paid to all employees.

(2) (a) The information required under Subsection (1) shall be furnished in the form prescribed by the division.

(b) Every employer shall:

(i) answer fully and correctly all questions and give all the information sought by the division under Subsection (1); or

(ii) if unable to comply with Subsection (2)(b)(i), give to the division, in writing, good and sufficient reasons for the failure.

(3) (a) The division may require the information required to be furnished by this chapter or Chapter 3, Utah Occupational Disease Act, to be made under oath and returned to the division within the period fixed by it or by law.

(b) The division, or any person employed by the division for that purpose, shall have the right to examine, under oath, any employer, or the employer's agents or employees, for the purpose of ascertaining any information that the employer is required by this chapter or Chapter 3, Utah Occupational Disease Act, to furnish to the division.

(4) (a) The division may seek a penalty of not to exceed \$500 for each offense to be recovered in a civil action brought by the commission or the division on behalf of the

59 commission against an employer who:

60 (i) within a reasonable time to be fixed by the division and after the receipt of written
61 notice signed by the director or the director's designee specifying the information demanded
62 and served by certified mail or personal service, refuses to furnish to the division:

63 (A) the annual statement required by this section; or

64 (B) other information as may be required by the division under this section; or

65 (ii) willfully furnishes a false or untrue statement.

66 (b) All penalties collected under Subsection (4)(a) shall be paid into:

67 (i) the Employers' Reinsurance Fund created in Section [34A-2-702](#)[-]; or

68 (ii) if the commissioner has made the notification described in Subsection

69 [34A-2-702\(7\)](#), the Uninsured Employers' Fund created in Section [34A-2-704](#).

70 Section 2. Section **34A-2-701** is amended to read:

71 **34A-2-701. Premium assessment restricted account for safety.**

72 (1) There is created in the General Fund a restricted account known as the "Workplace
73 Safety Account."

74 (2) (a) An amount equal to 0.25% of the premium income remitted to the state
75 treasurer pursuant to Subsection [59-9-101\(2\)\(c\)\(ii\)](#) shall be deposited in the Workplace Safety
76 Account in the General Fund for use as provided in this section.

77 (b) Beginning with fiscal year 2008-09, if the balance in the Workplace Safety Account
78 exceeds \$500,000 at the close of a fiscal year, the excess shall be transferred to:

79 (i) the Employers' Reinsurance Fund, created under Subsection [34A-2-702\(1\)](#)[-]; or

80 (ii) if the commissioner has made the notification described in Subsection

81 [34A-2-702\(7\)](#), the Uninsured Employers' Fund created in Section [34A-2-702](#).

82 (3) The Legislature shall appropriate from the restricted account money to one or both
83 of the following:

84 (a) money to the commission for use by the commission to:

85 (i) improve safety consultation services available to Utah employers; or

86 (ii) provide for electronic or print media advertising campaigns designed to promote
87 workplace safety; and

88 (b) subject to Subsection (7), money known as the "Eddie P. Mayne Workplace Safety
89 and Occupational Health Funding Program":

90 (i) to an institution within the state system of higher education, as defined in Section
91 53B-1-102; and

92 (ii) to be expended by an education and research center that is:

93 (A) affiliated with the institution described in Subsection (3)(b)(i); and

94 (B) designated as an education and research center by the National Institute for
95 Occupational Safety and Health.

96 (4) From money appropriated by the Legislature from the restricted account to the
97 commission for use by the commission, the commission may fund other safety programs or
98 initiatives recommended to it by its state workers' compensation advisory council created under
99 Section 34A-2-107.

100 (5) (a) The commission shall annually report to the governor, the Legislature, and its
101 state council regarding:

102 (i) the use of the money appropriated to the commission under Subsection (3) or (4);
103 and

104 (ii) the impact of the use of the money on the safety of Utah's workplaces.

105 (b) By no later than August 15 following a fiscal year in which an education and
106 research center receives money from an appropriation under Subsection (3)(b), the education
107 and research center shall report:

108 (i) to:

109 (A) the governor;

110 (B) the Legislature;

111 (C) the commission; and

112 (D) the state workers' compensation advisory council created under Section
113 34A-2-107; and

114 (ii) regarding:

115 (A) the use of the money appropriated under Subsection (3)(b); and

116 (B) the impact of the use of the money on the safety of Utah's workplaces.

117 (6) The money deposited in the restricted account:

118 (a) shall be:

119 (i) used only for the activities described in Subsection (3) or (4); and

120 (ii) expended according to processes that can be verified by audit; and

121 (b) may not be used by the commission for:

122 (i) administrative costs unrelated to the restricted account; or

123 (ii) any activity of the commission other than the activities of the commission

124 described in Subsection (3) or (4).

125 (7) The total of appropriations under Subsection (3)(b) may not exceed for a fiscal year
126 an amount equal to 20% of the premium income remitted to the state treasurer pursuant to
127 Subsection 59-9-101(2)(c) and deposited in the Workplace Safety Account during the previous
128 fiscal year.

129 Section 3. Section 34A-2-702 is amended to read:

130 **34A-2-702. Employers' Reinsurance Fund -- Injury causing death -- Burial**
131 **expenses -- Payments to dependents.**

132 (1) (a) There is created an Employers' Reinsurance Fund for the purpose of making a
133 payment for an industrial accident or occupational disease occurring on or before June 30,
134 1994. A payment made under this section shall be made in accordance with this chapter or
135 Chapter 3, Utah Occupational Disease Act. The Employers' Reinsurance Fund has no liability
136 for an industrial accident or occupational disease occurring on or after July 1, 1994.

137 (b) The Employers' Reinsurance Fund succeeds to all money previously held in the
138 "Special Fund," the "Combined Injury Fund," or the "Second Injury Fund."

139 (c) The commissioner shall appoint an administrator of the Employers' Reinsurance
140 Fund.

141 (d) The state treasurer shall be the custodian of the Employers' Reinsurance Fund.

142 (e) The administrator shall make provisions for and direct a distribution from the
143 Employers' Reinsurance Fund.

144 (f) Reasonable costs of administering the Employers' Reinsurance Fund or other fees
145 may be paid from the Employers' Reinsurance Fund.

146 (2) The state treasurer shall:

147 (a) receive workers' compensation premium assessments from the State Tax
148 Commission; and

149 (b) invest the Employers' Reinsurance Fund to ensure maximum investment return for
150 both long and short term investments in accordance with Section 34A-2-706.

151 (3) (a) The administrator may employ, retain, or appoint counsel to represent the

152 Employers' Reinsurance Fund in a proceeding brought to enforce a claim against or on behalf
153 of the Employers' Reinsurance Fund.

154 (b) If requested by the commission, the attorney general shall aid in representation of
155 the Employers' Reinsurance Fund.

156 (4) The liability of the state, its departments, agencies, instrumentalities, elected or
157 appointed officials, or other duly authorized agents, with respect to payment of compensation
158 benefits, expenses, fees, medical expenses, or disbursement properly chargeable against the
159 Employers' Reinsurance Fund, is limited to the cash or assets in the Employers' Reinsurance
160 Fund, and they are not otherwise, in any way, liable for the operation, debts, or obligations of
161 the Employers' Reinsurance Fund.

162 (5) (a) If injury causes death within a period of 312 weeks from the date of the
163 accident, the employer or insurance carrier shall pay:

- 164 (i) the burial expenses of the deceased as provided in Section 34A-2-418; and
- 165 (ii) benefits in the amount and to a person provided for in this Subsection (5).

166 (b) (i) If there is a wholly dependent person at the time of the death, the payment by the
167 employer or the employer's insurance carrier shall be:

168 (A) subject to Subsections (5)(b)(i)(B) and (C), 66-2/3% of the decedent's average
169 weekly wage at the time of the injury;

170 (B) not more than a maximum of 85% of the state average weekly wage at the time of
171 the injury per week; and

172 (C) (I) not less than a minimum of \$45 per week, plus:

173 (Aa) \$20 for a dependent spouse; and

174 (Bb) \$20 for each dependent minor child under the age of 18 years, up to a maximum
175 of four such dependent minor children; and

176 (II) not exceeding:

177 (Aa) the average weekly wage of the employee at the time of the injury; and

178 (Bb) 85% of the state average weekly wage at the time of the injury per week.

179 (ii) Compensation shall continue during dependency for the remainder of the period
180 between the date of the death and the expiration of 312 weeks after the date of the injury.

181 (iii) (A) The payment by the employer or the employer's insurance carrier to a wholly
182 dependent person during dependency following the expiration of the first 312-week period

183 described in Subsection (5)(b)(ii) shall be an amount equal to the weekly benefits paid to the
184 wholly dependent person during the initial 312-week period, reduced by 50% of the federal
185 social security death benefits the wholly dependent person:

186 (I) is eligible to receive for a week as of the first day the employee is eligible to receive
187 a Social Security death benefit; and

188 (II) receives.

189 (B) An employer or the employer's insurance carrier may not reduce compensation
190 payable under this Subsection (5)(b)(iii) on or after May 5, 2008, to a wholly dependent person
191 by an amount related to a cost-of-living increase to the social security death benefits that the
192 wholly dependent person is first eligible to receive for a week, notwithstanding whether the
193 employee is injured on or before May 4, 2008.

194 (C) For purposes of a wholly dependent person whose compensation payable is
195 reduced under this Subsection (5)(b)(iii) on or before May 4, 2008, the reduction is limited to
196 the amount of the reduction as of May 4, 2008.

197 (iv) The issue of dependency is subject to review at the end of the initial 312-week
198 period and annually after the initial 312-week period. If in a review it is determined that, under
199 the facts and circumstances existing at that time, the applicant is no longer a wholly dependent
200 person, the applicant:

201 (A) may be considered a partly dependent or nondependent person; and

202 (B) shall be paid the benefits as may be determined under Subsection (5)(d)(iii).

203 (c) (i) For purposes of a dependency determination, a surviving spouse of a deceased
204 employee is conclusively presumed to be wholly dependent for a 312-week period from the
205 date of death of the employee. This presumption does not apply after the initial 312-week
206 period.

207 (ii) (A) In determining the annual income of the surviving spouse after the initial
208 312-week period, there shall be excluded 50% of a federal social security death benefit that the
209 surviving spouse:

210 (I) is eligible to receive for a week as of the first day the surviving spouse is eligible to
211 receive a Social Security death benefit; and

212 (II) receives.

213 (B) An employer or the employer's insurance carrier may not reduce compensation

214 payable under this Subsection (5)(c)(ii) on or after May 5, 2008, to a surviving spouse by an
215 amount related to a cost-of-living increase to the social security death benefits that the
216 surviving spouse is first eligible to receive for a week, notwithstanding whether the employee
217 is injured on or before May 4, 2008.

218 (C) For purposes of a surviving spouse whose compensation payable is reduced under
219 this Subsection (5)(c)(ii) on or before May 4, 2008, the reduction is limited to the amount of
220 the reduction as of May 4, 2008.

221 (d) (i) If there is a partly dependent person at the time of the death, the payment shall
222 be:

223 (A) subject to Subsections (5)(d)(i)(B) and (C), 66-2/3% of the decedent's average
224 weekly wage at the time of the injury;

225 (B) not more than a maximum of 85% of the state average weekly wage at the time of
226 the injury per week; and

227 (C) not less than a minimum of \$45 per week.

228 (ii) Compensation shall continue during dependency for the remainder of the period
229 between the date of death and the expiration of 312 weeks after the date of injury.

230 Compensation may not amount to more than a maximum of \$30,000.

231 (iii) The benefits provided for in this Subsection (5)(d) shall be in keeping with the
232 circumstances and conditions of dependency existing at the date of injury, and any amount paid
233 under this Subsection (5)(d) shall be consistent with the general provisions of this chapter and
234 Chapter 3, Utah Occupational Disease Act.

235 (iv) Benefits to a person determined to be partly dependent under Subsection (5)(c):

236 (A) shall be determined in keeping with the circumstances and conditions of
237 dependency existing at the time of the dependency review; and

238 (B) may be paid in an amount not exceeding the maximum weekly rate that a partly
239 dependent person would receive if wholly dependent.

240 (v) A payment under this section shall be paid to a person during a person's
241 dependency by the employer or the employer's insurance carrier.

242 (e) (i) Subject to Subsection (5)(e)(ii), if there is a wholly dependent person and also a
243 partly dependent person at the time of death, the benefits may be apportioned in a manner
244 consistent with Section [34A-2-414](#).

245 (ii) The total benefits awarded to all parties concerned may not exceed the maximum
246 provided for by law.

247 (6) The Employers' Reinsurance Fund:

248 (a) shall be:

249 (i) used only in accordance with Subsection (1) for:

250 (A) the purpose of making a payment for an industrial accident or occupational disease
251 occurring on or before June 30, 1994, in accordance with this section and Section 34A-2-703;
252 and

253 (B) payment of:

254 (I) reasonable costs of administering the Employers' Reinsurance Fund; or

255 (II) fees required to be paid by the Employers' Reinsurance Fund;

256 (ii) expended according to processes that can be verified by audit; and

257 (b) may not be used for:

258 (i) administrative costs unrelated to the Employers' Reinsurance Fund; or

259 (ii) an activity of the commission other than an activity described in Subsection (6)(a).

260 (7) (a) After the commissioner determines that all liabilities to be paid from the
261 Employers' Reinsurance Fund have been paid, the commissioner shall notify the Division of
262 Finance.

263 (b) Upon notification from the commissioner in accordance with Subsection (7)(a), the
264 Division of Finance shall transfer any residual assets in the Employers' Reinsurance Fund into
265 the Uninsured Employers' Fund.

266 Section 4. Section 34A-2-704 is amended to read:

267 **34A-2-704. Uninsured Employers' Fund.**

268 (1) (a) There is created an Uninsured Employers' Fund. The Uninsured Employers'
269 Fund has the purpose of assisting in the payment of workers' compensation benefits to a person
270 entitled to the benefits, if:

271 (i) that person's employer:

272 (A) is individually, jointly, or severally liable to pay the benefits; and

273 (B) (I) becomes or is insolvent;

274 (II) appoints or has appointed a receiver; or

275 (III) otherwise does not have sufficient funds, insurance, sureties, or other security to

276 cover workers' compensation liabilities; and

277 (ii) the employment relationship between that person and the person's employer is
278 localized within the state as provided in Subsection (20).

279 (b) The Uninsured Employers' Fund succeeds to money previously held in the Default
280 Indemnity Fund.

281 (c) If it becomes necessary to pay benefits, the Uninsured Employers' Fund is liable for
282 the obligations of the employer set forth in this chapter and Chapter 3, Utah Occupational
283 Disease Act, with the exception of a penalty on those obligations.

284 (2) (a) Money for the Uninsured Employers' Fund shall be deposited into the Uninsured
285 Employers' Fund in accordance with this chapter[;] and Subsection 59-9-101(2)[, ~~and~~
286 ~~Subsection 34A-2-213(3)~~].

287 (b) The commissioner shall appoint an administrator of the Uninsured Employers'
288 Fund.

289 (c) (i) The state treasurer is the custodian of the Uninsured Employers' Fund.

290 (ii) The administrator shall make provisions for and direct distribution from the
291 Uninsured Employers' Fund.

292 (3) Reasonable costs of administering the Uninsured Employers' Fund or other fees
293 required to be paid by the Uninsured Employers' Fund may be paid from the Uninsured
294 Employers' Fund.

295 (4) The state treasurer shall:

296 (a) receive workers' compensation premium assessments from the State Tax
297 Commission; and

298 (b) invest the Uninsured Employers' Fund to ensure maximum investment return for
299 both long and short term investments in accordance with Section 34A-2-706.

300 (5) (a) The administrator may employ, retain, or appoint counsel to represent the
301 Uninsured Employers' Fund in a proceeding brought to enforce a claim against or on behalf of
302 the Uninsured Employers' Fund.

303 (b) If requested by the commission, the following shall aid in the representation of the
304 Uninsured Employers' Fund:

305 (i) the attorney general; or

306 (ii) the city attorney, or county attorney of the locality in which:

- 307 (A) an investigation, hearing, or trial under this chapter or Chapter 3, Utah
308 Occupational Disease Act, is pending;
- 309 (B) the employee resides; or
310 (C) an employer:
311 (I) resides; or
312 (II) is doing business.
- 313 (c) (i) Notwithstanding Title 63A, Chapter 3, Part 5, Office of State Debt Collection,
314 the administrator shall provide for the collection of money required to be deposited in the
315 Uninsured Employers' Fund under this chapter and Chapter 3, Utah Occupational Disease Act.
- 316 (ii) To comply with Subsection (5)(c)(i), the administrator may:
317 (A) take appropriate action, including docketing an award in a manner consistent with
318 Section [34A-2-212](#); and
319 (B) employ counsel and other personnel necessary to collect the money described in
320 Subsection (5)(c)(i).
- 321 (6) To the extent of the compensation and other benefits paid or payable to or on behalf
322 of an employee or the employee's dependents from the Uninsured Employers' Fund, the
323 Uninsured Employers' Fund, by subrogation, has the rights, powers, and benefits of the
324 employee or the employee's dependents against the employer failing to make the compensation
325 payments.
- 326 (7) (a) The receiver, trustee, liquidator, or statutory successor of an employer meeting a
327 condition listed in Subsection (1)(a)(i)(B) is bound by a settlement of a covered claim by the
328 Uninsured Employers' Fund.
- 329 (b) A court with jurisdiction shall grant a payment made under this section a priority
330 equal to that to which the claimant would have been entitled in the absence of this section
331 against the assets of the employer meeting a condition listed in Subsection (1)(a)(i)(B).
- 332 (c) The expenses of the Uninsured Employers' Fund in handling a claim shall be
333 accorded the same priority as the liquidator's expenses.
- 334 (8) (a) The administrator shall periodically file the information described in Subsection
335 (8)(b) with the receiver, trustee, or liquidator of:
336 (i) an employer that meets a condition listed in Subsection (1)(a)(i)(B);
337 (ii) a public agency insurance mutual, as defined in Section [31A-1-103](#), that meets a

338 condition listed in Subsection (1)(a)(i)(B); or

339 (iii) an insolvent insurance carrier.

340 (b) The information required to be filed under Subsection (8)(a) is:

341 (i) a statement of the covered claims paid by the Uninsured Employers' Fund; and

342 (ii) an estimate of anticipated claims against the Uninsured Employers' Fund.

343 (c) A filing under this Subsection (8) preserves the rights of the Uninsured Employers'
344 Fund for claims against the assets of the employer that meets a condition listed in Subsection
345 (1)(a)(i)(B).

346 (9) When an injury or death for which compensation is payable from the Uninsured
347 Employers' Fund has been caused by the wrongful act or neglect of another person not in the
348 same employment, the Uninsured Employers' Fund has the same rights as allowed under
349 Section [34A-2-106](#).

350 (10) The Uninsured Employers' Fund, subject to approval of the administrator, shall
351 discharge its obligations by:

352 (a) adjusting its own claims; or

353 (b) contracting with an adjusting company, risk management company, insurance
354 company, or other company that has expertise and capabilities in adjusting and paying workers'
355 compensation claims.

356 (11) (a) For the purpose of maintaining the Uninsured Employers' Fund, an
357 administrative law judge, upon rendering a decision with respect to a claim for workers'
358 compensation benefits in which an employer that meets a condition listed in Subsection
359 (1)(a)(i)(B) is duly joined as a party, shall:

360 (i) order the employer that meets a condition listed in Subsection (1)(a)(i)(B) to
361 reimburse the Uninsured Employers' Fund for the benefits paid to or on behalf of an injured
362 employee by the Uninsured Employers' Fund along with interest, costs, and attorney fees; and

363 (ii) impose a penalty against the employer that meets a condition listed in Subsection
364 (1)(a)(i)(B):

365 (A) of 15% of the value of the total award in connection with the claim; and

366 (B) that shall be deposited into the Uninsured Employers' Fund.

367 (b) An award under this Subsection (11) shall be collected by the administrator in
368 accordance with Subsection (5)(c).

369 (12) The state, the commission, and the state treasurer, with respect to payment of
370 compensation benefits, expenses, fees, or disbursement properly chargeable against the
371 Uninsured Employers' Fund:

372 (a) are liable only to the assets in the Uninsured Employers' Fund; and

373 (b) are not otherwise in any way liable for the making of a payment.

374 (13) The commission may make reasonable rules for the processing and payment of a
375 claim for compensation from the Uninsured Employers' Fund.

376 (14) (a) (i) If it becomes necessary for the Uninsured Employers' Fund to pay benefits
377 under this section to an employee described in Subsection (14)(a)(ii), the Uninsured Employers'
378 Fund may assess all other self-insured employers amounts necessary to pay:

379 (A) the obligations of the Uninsured Employers' Fund subsequent to a condition listed
380 in Subsection (1)(a)(i)(B) occurring;

381 (B) the expenses of handling covered a claim subsequent to a condition listed in
382 Subsection (1)(a)(i)(B) occurring;

383 (C) the cost of an examination under Subsection (15); and

384 (D) other expenses authorized by this section.

385 (ii) This Subsection (14) applies to benefits paid to an employee of:

386 (A) a self-insured employer, as defined in Section [34A-2-201.5](#), that meets a condition
387 listed in Subsection (1)(a)(i)(B); or

388 (B) if the self-insured employer that meets a condition described in Subsection
389 (1)(a)(i)(B) is a public agency insurance mutual, a member of the public agency insurance
390 mutual.

391 (b) The assessments of a self-insured employer shall be in the proportion that the
392 manual premium of the self-insured employer for the preceding calendar year bears to the
393 manual premium of all self-insured employers for the preceding calendar year.

394 (c) A self-insured employer shall be notified of the self-insured employer's assessment
395 not later than 30 days before the day on which the assessment is due.

396 (d) (i) A self-insured employer may not be assessed in any year an amount greater than
397 2% of that self-insured employer's manual premium for the preceding calendar year.

398 (ii) If the maximum assessment does not provide in a year an amount sufficient to
399 make all necessary payments from the Uninsured Employers' Fund for one or more self-insured

400 employers that meet a condition listed in Subsection (1)(a)(i)(B), the unpaid portion shall be
401 paid as soon as money becomes available.

402 (e) A self-insured employer is liable under this section for a period not to exceed three
403 years after the day on which the Uninsured Employers' Fund first pays benefits to an employee
404 described in Subsection (14)(a)(ii) for the self-insured employer that meets a condition listed in
405 Subsection (1)(a)(i)(B).

406 (f) This Subsection (14) does not apply to a claim made against a self-insured employer
407 that meets a condition listed in Subsection (1)(a)(i)(B) if the condition listed in Subsection
408 (1)(a)(i)(B) occurred before July 1, 1986.

409 (15) (a) The following shall notify the division of any information indicating that any
410 of the following may be insolvent or in a financial condition hazardous to its employees or the
411 public:

412 (i) a self-insured employer; or

413 (ii) if the self-insured employer is a public agency insurance mutual, a member of the
414 public agency insurance mutual.

415 (b) Upon receipt of the notification described in Subsection (15)(a) and with good
416 cause appearing, the division may order an examination of:

417 (i) that self-insured employer; or

418 (ii) if the self-insured employer is a public agency insurance mutual, a member of the
419 public agency mutual.

420 (c) The cost of the examination ordered under Subsection (15)(b) shall be assessed
421 against all self-insured employers as provided in Subsection (14).

422 (d) The results of the examination ordered under Subsection (15)(b) shall be kept
423 confidential.

424 (16) (a) In a claim against an employer by the Uninsured Employers' Fund, or by or on
425 behalf of the employee to whom or to whose dependents compensation and other benefits are
426 paid or payable from the Uninsured Employers' Fund, the burden of proof is on the employer or
427 other party in interest objecting to the claim.

428 (b) A claim described in Subsection (16)(a) is presumed to be valid up to the full
429 amount of workers' compensation benefits claimed by the employee or the employee's
430 dependents.

431 (c) This Subsection (16) applies whether the claim is filed in court or in an adjudicative
432 proceeding under the authority of the commission.

433 (17) A partner in a partnership or an owner of a sole proprietorship may not recover
434 compensation or other benefits from the Uninsured Employers' Fund if:

435 (a) the person is not included as an employee under Subsection 34A-2-104(3); or

436 (b) the person is included as an employee under Subsection 34A-2-104(3), but:

437 (i) the person's employer fails to insure or otherwise provide adequate payment of
438 direct compensation; and

439 (ii) the failure described in Subsection (17)(b)(i) is attributable to an act or omission
440 over which the person had or shared control or responsibility.

441 (18) A director or officer of a corporation may not recover compensation or other
442 benefits from the Uninsured Employers' Fund if the director or officer is excluded from
443 coverage under Subsection 34A-2-104(4).

444 (19) The Uninsured Employers' Fund:

445 (a) shall be:

446 (i) used in accordance with this section only for:

447 (A) the purpose of assisting in the payment of workers' compensation benefits in
448 accordance with Subsection (1); and

449 (B) in accordance with Subsection (3), payment of:

450 (I) reasonable costs of administering the Uninsured Employers' Fund; or

451 (II) fees required to be paid by the Uninsured Employers' Fund; and

452 (ii) expended according to processes that can be verified by audit; and

453 (b) may not be used for:

454 (i) administrative costs unrelated to the Uninsured Employers' Fund; or

455 (ii) an activity of the commission other than an activity described in Subsection (19)(a).

456 (20) (a) For purposes of Subsection (1), an employment relationship is localized in the
457 state if:

458 (i) (A) the employer who is liable for the benefits has a business premise in the state;

459 and

460 (B) (I) the contract for hire is entered into in the state; or

461 (II) the employee regularly performs work duties in the state for the employer who is

462 liable for the benefits; or

463 (ii) the employee is:

464 (A) a resident of the state; and

465 (B) regularly performs work duties in the state for the employer who is liable for the

466 benefits.

467 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

468 commission shall by rule define what constitutes regularly performing work duties in the state.