



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

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

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

3 (1) Interest-bearing bonds of the United States of America.

4 (2) Interest-bearing bonds of the State of North Carolina, or of its cities or  
5 counties.

6 (3) Certificates of deposit issued by any solvent bank domesticated in the  
7 State of North Carolina that have a maturity of one year or greater.

8 (4) Surety bonds in a form acceptable to the Commissioner and issued by  
9 a corporate surety. A surety bond deposited pursuant to this subsection  
10 shall require that the surety reimburse the Commissioner, or his  
11 successors, assigns, or transferees, from the proceeds of the surety  
12 bond, for any costs incurred in the collection of the proceeds of the  
13 surety bond, including reasonable attorneys' fees, and any costs  
14 incurred in administering the workers' compensation claims against the  
15 insolvent self-insurer that deposited the surety bond.

16 (4a) Irrevocable letters of credit in a form acceptable to the Commissioner  
17 issued by a bank acceptable to the Commissioner.

18 (5) Any other investments that are approved by the Commissioner.

19 (d) All bonds or securities that are posted as a security deposit shall be valued  
20 annually at market value. If market value is less than face value, the Commissioner may  
21 require the self-insurer to post additional securities. In making this determination, the  
22 Commissioner shall consider the self-insurer's financial condition, the amount by which  
23 market value is less than face value, and the likelihood that the securities will be needed  
24 to provide benefits.

25 (e) Securities deposited under this section shall be assigned to the Commissioner,  
26 the Commissioner's successors, assigns, or trustees, on a form prescribed by the  
27 Commissioner in a manner that renders the securities negotiable by the Commissioner.  
28 If a self-insurer is deemed by the Commissioner to be in a hazardous financial  
29 condition, the Commissioner may sell or collect, or both, such amounts that will yield  
30 sufficient funds to meet the self-insurer's obligations under the Act. In the case of a  
31 letter of credit, the Commissioner may draw the full amount of a letter of credit if the  
32 letter of credit is not renewed within 90 days prior to its expiration or at any time that  
33 the bank issuing the letter of credit is no longer acceptable to the Commissioner. Interest  
34 accruing on any negotiable security deposited under this Article shall be collected and  
35 transmitted to the self-insurer if the self-insurer is not in a hazardous financial condition.

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

38 (g) Securities held by the Commissioner under this section may be exchanged or  
39 replaced by the self-insurer with other securities of like nature and amount as long as  
40 the self-insurer is not in a hazardous financial condition. No release shall be effectuated  
41 until replacement securities or bonds of an equal value have been substituted. Any  
42 surety bond may be exchanged or replaced with another surety bond that meets the  
43 requirements of this section if 90 days' advance written notice is given to the  
44 Commissioner. If a self-insurer ceases to self-insure or desires to replace securities with

1 an acceptable surety bond or bonds, the self-insurer shall notify the Commissioner, and  
2 may recover all or a portion of the securities deposited with the Commissioner upon  
3 posting instead an acceptable special release bond issued by a corporate surety in an  
4 amount equal to the total value of the securities. The special release bond shall cover all  
5 existing liabilities under the Act plus an amount to cover future loss development and  
6 shall remain in force until all obligations under the Act have been discharged fully.

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

10 (i) An endorsement to a surety bond shall be filed with the Commissioner within  
11 90 days after the effective date of the endorsement."

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

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

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

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

29 **SECTION 6.** Effective January 1, 2007, G.S. 97-185(a), as amended in  
30 Sections 3, 4, and 5 of this act, reads as rewritten:

31 "(a) Every self-insurer shall deposit with the Commissioner an amount equal to  
32 ~~one hundred percent (100%)~~ one hundred twenty-five percent (125%) of the  
33 self-insurer's total undiscounted outstanding claim liability per the most recent  
34 certification from a qualified actuary as required by G.S. 97-180(b), but not less than  
35 five hundred thousand dollars (\$500,000), or such other amount as the Commissioner  
36 prescribes based on, but not limited to, the financial condition of the self-insurer and the  
37 risk retained by the self-insurer."

38 **SECTION 7.** G.S. 97-141 reads as rewritten:

39 **"§ 97-141. Stay of proceedings.**

40 All claims or proceedings under this Chapter to which the insolvent member  
41 self-insurer is a party either before the Industrial Commission or a court in this State and  
42 the running of all time periods against either the insolvent member self-insurer or the  
43 Association under this Chapter shall be stayed for 60 days from the later of the date of  
44 notice to the Association of the insolvency or the date the Association is notified of a

1 claim or proceeding under this Chapter in order to permit the Association to investigate,  
2 prosecute, or defend properly any petition, claim, or appeal under this Chapter, provided  
3 that the payment of weekly compensation for incapacity is made whenever time periods  
4 or proceedings affecting the payment of weekly compensation are stayed."

5         **SECTION 8.** Section 3 of this act becomes effective January 1, 2004.  
6 Section 4 of this act becomes effective January 1, 2005. Section 5 of this act becomes  
7 effective January 1, 2006. Section 6 of this act becomes effective January 1, 2007.  
8 Section 7 of this act is effective when this act becomes law and applies to claims filed  
9 on or after that date. The remainder of this act is effective when this act becomes law  
10 and applies to assessments made on or after that date.